



Appropriation (Nation Building and Jobs) Bill (No. 2) 2008–09

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Appropriation (Nation Building and Jobs) Bill (No. 2) 2008–09

Date introduced: 4 February 2009

House: House of Representatives

Portfolio: Finance and Deregulation

Commencement: On Royal Assent

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

To appropriate \$1 727.2 million for the non-ordinary ('other') annual services of the government as part of the Nation Building and Jobs Plan.

Background

On 3 February 2009, the Rudd Government announced the National Building and Jobs Plan (the Plan).¹ The context is the deteriorating Australian and world economies. The Plan's purpose is to provide additional fiscal stimulus to counter the contraction in the economy. The Plan is the fourth fiscal stimulus package and follows the Economic Security Strategy,² the Nation Building Package,³ and the Council of Australian Governments (COAG) funding package.⁴

1. Hon. Kevin Rudd (Prime Minister), *\$42 Billion Nation Building and Jobs Plan*, media release, 3 February 2009, at http://www.pm.gov.au/media/Release/2009/media_release_0784.cfm. Accessed 9 February 2009. A comprehensive document, *Updated Economic and Fiscal Outlook*, which deals with the Plan is on the Australian Government Budget website at http://www.budget.gov.au/2008-09/content/uefo/download/Combined_UEFO.pdf. Accessed 9 February 2009.
2. Hon. Kevin Rudd (Prime Minister), and Hon. Wayne Swan (Treasurer), *Economic Security Strategy*, joint press release, 14 October 2008, at http://www.pm.gov.au/media/Release/2008/media_release_0550.cfm. Accessed 9 February 2009.

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For a discussion of the desirability and the efficacy of measures to revive the economy through fiscal stimulus, see the Bills Digest for the [Appropriation \(Nation Building and Jobs\) Bill \(No. 1\) 2008-2009](#).

The Plan has ten elements:

- Building the Education Revolution
- 20 000 social and defence homes
- energy efficient homes
- small business and general business tax breaks
- black spots, boom gates and community infrastructure
- tax bonus payment for working Australians
- single-income family bonus payment
- farmer's hardship bonus payment
- back to school bonus payment, and
- training and learning bonus payment.

Bills

To implement the Plan, the government introduced six Bills:

- the Appropriation (Nation Building and Jobs) Bill (No. 1) 2008-2009
- Appropriation (Nation Building and Jobs) Bill (No. 2) 2008-2009
- Household Stimulus Package Bill 2009
- Tax Bonus for Working Australians Bill 2009
- Tax Bonus for Working Australians (Consequential Amendments) Bill 2009, and
- Commonwealth Inscribed Stock Amendment Bill 2009.

This Bills Digest deals with the Appropriation (Nation Building and Jobs) Bill (No. 2) 2008-2009 (the bill).

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3. Hon. Kevin Rudd (Prime Minister), *\$4.7 billion Nation Building Package, media release* 12 December 2008, at http://www.pm.gov.au/media/Release/2008/media_release_0687.cfm. Accessed 9 February 2009.
 4. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, Communiqué, 29 November 2008, at http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/. Accessed 9 February 2009.

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Committee consideration

All six Bills were referred to the Finance and Public Administration Committee for inquiry and report by 10 February 2009. Details of the inquiry are at http://www.aph.gov.au/Senate/committee/fapa_ctte/stimulus_package/index.htm.

Financial implications

The Plan's cost is estimated at almost \$42 billion over four years. Of this, almost \$13 billion is in 2008–09, more than \$17 billion in 2009–10, more than \$1.5 billion in 2010–11, and more than \$1.5 billion in 2011–12.⁵

The Bill appropriates \$1 727.2 million comprising:

- \$987.2 million in 2008–09 for the Department of Education, Employment and Workplace Relations under the Building the Education Revolution program
- \$260 million for the Department of Families, Housing, Community Services and Indigenous Affairs for social housing, and
- \$480 million to the Department of Infrastructure, Transport, Regional Development and Local Government. The components are:
 - \$230 million of which \$150 million is for repairs to national highways, \$50 million for boom gates for rail crossings, and an additional \$30 million for the Black Spot program, and
 - an additional \$250 million under the Regional and Local Community Infrastructure Program: Strategic Projects program.

All of the above amounts will be paid to the states, territories and local governments as specific purpose payments.

Building the Education Revolution

This Bill appropriates funding of \$987.2 million in the 2008–09 financial year as part of the government's \$14.7 billion Building the Education Revolution (BER) initiative. Subsequent funding of \$8.5 billion for school infrastructure is proposed in 2009–10, and a further \$5.26 billion is proposed in 2010–11.⁶ The \$987.2 million will be additional to the

5. *Updated Economic and Fiscal Outlook February 2009*, Statement by the Hon. Wayne Swan (Treasurer) and the Hon. Lindsay Tanner (minister for Finance and Deregulation), 3 February 2009, at http://www.pm.gov.au/media/Release/2009/media_release_0784.cfm, accessed 6 February 2009.

6. Cited in the Department of Education, Employment and Workplace Relations' *Building the Education Revolution* fact sheets,

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Commonwealth's expenditure on schools which was estimated in the Mid-Year Economic and Fiscal Outlook (MYEFO) to be \$9.8 billion in 2008–09.⁷

Building the Education Revolution has three key programs:

- *Primary Schools for the 21st Century*
 - provides \$12.4 billion over three years for government and non-government primary schools to build or upgrade major infrastructure, such as multi-purpose halls and libraries
 - facilities must be made available to the community for low or no cost
 - projects must be completed by 30 June 2011
 - priorities will be given to schools applying to build new facilities, but schools with a recently completed library or hall are still entitled to apply and
 - funding caps apply and will be determined by school size. Schools with up to 50 students, for example, can apply for up to \$250 000; schools with over 400 students can apply for up to \$3 million in funding.⁸
- *Science and Language Centres for 21st Century Secondary Schools*
 - provides \$1 billion over three years to build approximately 500 new science laboratories or language learning centres in government and non-government secondary schools and
 - funding will be through a one-off competitive grants process and only made available to schools with a demonstrated need and the capacity to complete construction by 30 June 2010.⁹
- *National School Pride Program*

<http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Pages/default.aspx>, accessed on 5 February 2009.

7. Australian Government, *Mid-Year Economic And Fiscal Outlook 2008–09*, Commonwealth of Australia, Canberra, 2008, Annex A, Table A.3, p. 90, http://www.budget.gov.au/2008-09/content/myefo/download/MYEFO_2008_09.pdf, accessed on 9 February 2009.
8. Department of Education, Employment and Workplace Relations, *Building the Education Revolution: Primary Schools*, http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Documents/BERFactSheet_PrimarySchools.pdf, accessed on 5 February 2009.
9. Department of Education, Employment and Workplace Relations, *Building the Education Revolution: Secondary Schools*, http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Documents/BERFactsheet_SecondarySchools.pdf, accessed on 5 February 2009.

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- provides a total of \$1.3 billion for all Australian schools to undertake maintenance and minor building work and
- funding caps apply and will be determined by school size. Schools with over 400 students will be able to apply for a maximum of \$200 000.¹⁰

Funding arrangements

The Government proposes to make funding for the BER available from February 2009 through state and territory governments for government schools and through Block Grant Authorities (BGAs) for non-government schools. It will be a condition of funding, however, that the state and territory governments and BGAs prioritise projects so they can be completed on time. Schools receiving funding under any of the three new programs will be required to report on the progress of projects using an online reporting portal.¹¹

The *National School Pride Program* proposes funding of \$1.3 billion over three years. The program is similar to the *Investing in Our Schools Programme* (IOSP) that operated under the Coalition Government between 2005 and 2008 in that it will fund maintenance and minor capital works with a cap of \$200 000.¹² However, unlike IOSP, the Government expects that all schools will receive funding (with 60 per cent of schools receiving funding in 2009 and 40 per cent in 2009–10. Proposal assessments will be through the states for

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10. Note: The *National School Pride Program* (as named in the COAG National Partnership Agreement) was named *Renewing Australian Schools* in the Government's initial press releases. Department of Education, Employment and Workplace Relations, *Building the Education Revolution: K-12 Schools*, http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Documents/BERFactSheet_K12_Schools.pdf, accessed on 9 February 2009.
 11. W. Swan, 'Building the education revolution', *Fact Sheet: 2009 Updated Economic and Fiscal Outlook*, <http://www.treasurer.gov.au/DisplayDocs.aspx?doc=factsheets/2009/002.htm&pageID=011&min=wms&Year=&DocType=3>, accessed on 5 February 2009. See also Council of Australian Governments, *National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now*, http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf, accessed on 6 February 2009.
 12. IOSP provided initial funding of \$1 billion over four years for small-scale capital projects costing no more than \$175 000. IOSP ceased operating in 2008. For more information, see the IOSP website, <http://www.investinginourschools.dest.gov.au/>, accessed on 5 February 2009.

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government schools and funding caps are tied to school size.¹³ Proposal assessments for non-government schools will be managed through BGAs as they were under the IOSP.

The *Primary Schools for the 21st Century* program is the largest component of the Building the Education Revolution package. Funding will be \$12.4 billion over three years with the majority appropriated in the 2009–10 and 2010–11 financial years. All primary schools, special schools and K–12 schools with a primary component are expected to benefit from this program.¹⁴ They will be eligible to apply for funding to build libraries, multipurpose halls or to upgrade existing facilities. Under the terms of the Council of Australian Governments' National Partnership Agreement on the Nation Building and Jobs Plan, funding for government primary schools is conditional on the states agreeing to make new and refurbished buildings in primary schools available for community use at no or low cost. Presumably similar conditions will be included in agreements with non-government schools authorities.¹⁵

Of the \$987.2 million appropriated by the Bill, \$386.4 million will be spent on the *National School Pride Program* and \$600.8 million on the *Primary Schools for the 21st Century* program.¹⁶

Sector allocation estimates for 2008–09 are: government schools \$688.5 million, Catholic schools \$192.6 million and independent schools \$106.2 million. State allocation estimates for 2008–09 are: New South Wales \$317.1 million, Victoria \$235.0 million, Queensland \$183.9 million, Western Australia \$107.9 million, South Australia \$85.1 million, Tasmania \$27.2 million, Northern Territory \$14.6 million and the Australian Capital Territory \$16.3 million.¹⁷

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13. Council of Australian Governments Meeting, *Communiqué*, 5 February 2009, http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_communique.pdf, accessed on 6 February 2009.
 14. Note there is some confusion about the number of primary schools. ABS data suggests there were 7716 schools in this category in 2007. The BER primary schools fact sheet states there are 6500 primary schools. Australian Bureau of Statistics (ABS), *Schools Australia 2007*, Cat. no. 4221.0, ABS, 2008, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4221.0Main%20Features42007?opendocument&tabname=Summary&prodno=4221.0&issue=2007&num=&view=> accessed on 6 February 2009.
 15. Council of Australian Governments, National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now, http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf, accessed on 6 February 2009.
 16. *ibid.*, p. 24.
 17. Funding information supplied in email from a Department of Education, Employment and Workplace Relations official, 6 February 2009.

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Basis of policy commitment

The primary objective of the BER is ‘to provide economic stimulus through the rapid construction and refurbishment of school infrastructure’.¹⁸ However, the substantial financial commitment of \$14.7 billion to schools is consistent with the Labor Government’s emphasis on investing in education to build future national prosperity. The Labor Party in opposition and in government have named this commitment the ‘Education Revolution’.¹⁹

To date, the Government’s budget measures for schools have been directed at broadly based programs developed in partnership with the states and territories. These new programs include the Digital Education Revolution (computers in schools initiative), the National Action Plan for Literacy and Numeracy (providing additional support to students and schools with most need), Trade Training Centres in Schools, increasing general recurrent grants for government primary schools to the same level as government secondary schools and new indexation arrangements for all government schools which will increase their recurrent grant funding.

The concentration of funding, \$12.4 billion of the total \$14.7 billion, to primary schools builds on the government’s commitment to increase general recurrent funding of government primary schools. Recent reports have drawn attention to the under-resourcing of government and non-government primary schools. Two concluded that many primary schools, particularly those serving disadvantaged communities, did not have sufficient resources to meet the [National Goals for Schooling](#).²⁰ Similarly, an investigation into the state of Australian primary schooling, based mainly on evidence provided by staff from a random sample of 160 primary schools, concluded:

There is a link between the capacity of schools to develop good programs and the quality and scale of their facilities. It is much harder for a school to promote all of the Key Learning Areas if it consists of little more than regular classrooms, a set of offices for the principal and clerical staff and a reception area. ... Primary schools tend to be too small to acquire the funds (or, in the case of non-government schools, have sufficient income to service debts) needed for capital works. Being small also works against their political interests, as they are more likely to be invisible to capital

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18. Council of Australian Governments, op. cit., p. 21.
 19. J. Gillard, *Budget: Education Revolution 2008–09*, Commonwealth of Australia, Canberra, 2008. The BER funding emphasis on school infrastructure also reinforces the findings of a recent report that concluded ‘that a major imbalance exists in the average per capita investment between public and private schools’. Adam Rorris, *Rebuilding Public Schools: 2020 Investment Targets*, Australian Education Union, n.p., 2008, p. 4, http://dpl/Books/2008/Rorris_RebuildingPublicSchools.pdf accessed 10 February 2009.
 20. Australian Primary Principals Association (APPA), *Delivering Better Educational Outcomes*, in *Australian Primary Schools: Submission to the Commonwealth Minister for Education Regarding Quadrennial Funding for 2009–2012*, APPA, Kaleen, ACT, 2008, p. 1.

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grants administrators. Sadly, capital works have been done on the cheap. Old and sub-standard structures place a huge pressure on primary schools. This has become increasingly challenging as safety requirements have become more rigorous. Limited funds must be diverted to urgent works, such as replacing asbestos materials or removing trees that have died as a result of the drought. Many of these requirements are very expensive.²¹

Understandably, therefore, the Australian Primary Principals Association has welcomed the BER package and is calling for the Bill to be passed.²²

Key issues

Before the BER package was announced, the Government's commitment to school capital works was similar to the previous government—\$1.7 billion over four years.²³ Estimates for 2008–09 were \$526.9 million or 5.5 per cent of the Commonwealth's total school funding.²⁴ The Mid Year Economic and Fiscal Outlook (MYEFO) showed a decrease in the estimate for school capital works to \$341.44 million to take into account changed parameters in the costing of capital works.²⁵ The additional funding of \$987.2 million appropriated in the Bill therefore represents a significant increase in the Commonwealth's funding to school infrastructure.

The \$14.7 billion over three years in the BER package, albeit a one-off measure, represents a major shift in the Commonwealth's role and has generated discussion on the possibility of cost shifting from the states to the Commonwealth. The Government has argued that this will be prevented by making the funding conditional on the states maintaining 'their current and planned level of investment for capital infrastructure in schools over the next four years, spending it concurrently with BER funding on school

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21. M. Angus, H. Olney and J. Ainley, *In the Balance: The Future of Australia's Primary Schools*, Australian Primary Principals Association, Kaleen ACT, 2007, p. 62, <http://www.appa.asn.au/images/drivers/inthebalancereport.pdf>, accessed on 6 February 2009.
 22. *Primary principals call for Senate to pass education bill*, media release, 5 February 2009; and *APPA welcomes Australian Government schools funding announcement*, media release, 3 February 2009, <http://www.appa.asn.au/>, accessed on 9 February 2009.
 23. J. Gillard, *Budget: Education Revolution 2008–09*, Commonwealth of Australia, Canberra, 2008, p. 42.
 24. Includes \$53 million in 2008 allocated under the Investing in Our Schools Programme. Australian Government, *Portfolio Budget Statements 2008–09: Budget related paper No. 1.5*, Education, Employment and Workplace Relations portfolio, Commonwealth of Australia, Canberra, 2008, p. 43.
 25. Australian Government, *Mid-Year Economic And Fiscal Outlook 2008-09*, Commonwealth of Australia, Canberra, 2008, Annex A, Table A.3, p. 90, http://www.budget.gov.au/2008-09/content/myefo/download/MYEFO_2008_09.pdf accessed 9 February 2009.

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infrastructure, and providing the Australian Government with evidence of capital expenditure for the past four years and estimates for the next four years'.²⁶

Social housing

As a part of the \$42 billion economic stimulus package, up to \$6 billion is to be provided under the Commonwealth Social Housing Initiative to fund the construction of around 20 000 public and community housing dwellings. It is envisaged that the new houses should be largely completed by December 2010.²⁷ The Commonwealth Social Housing Initiative will also allocate around \$400 million to the states and territories over two years for the repair of around 2 500 public housing dwellings that are currently uninhabitable.²⁸

Background²⁹

Until recently, the main vehicle through which the Australian Government, along with the state and territory governments, has provided funding for public housing was the Commonwealth-State Housing Agreement (CSHA). This joint agreement helped to provide public and community housing to individuals and families in need since the late 1940s. The last CSHA commenced in 2003 and was effective until 30 June 2008.

In recent years it has been Australian Government policy to place a greater emphasis on Commonwealth Rent Assistance (CRA)—a payment to support eligible renters in the private rental market—than on the CSHA. As a result, Australian Government outlays on the CSHA declined in nominal and real terms since 1991–92, while CRA funding was increased. For example, in 1994–95, government expenditure for the CSHA was four per cent higher than for CRA. Between 1994–95 and 2003–04, an increase of nine per cent in CRA expenditure combined with a 31 per cent decrease for CSHA resulted in CRA expenditure surpassing

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26. Council of Australian Governments, National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now, p. 23.
 27. According to the COAG National Partnership Agreement, 75 per cent of the new dwellings should be completed by December 2010. Council of Australian Governments, National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now, http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf, accessed 6 February 2009.
 28. Australian Government, Budget 2008-09 Appendix B: Nation Building and Jobs Plan, http://www.budget.gov.au/2008-09/content/uefo/html/appendix_b.htm, accessed 5 February 2009.
 29. This section is largely based on the Public housing and rental assistance chapter of the Parliamentary Library Budget Review 2008-09, <http://www.aph.gov.au/library/pubs/RP/2007-08/08rp31.pdf>.

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CSHA expenditure.³⁰ In 2006–07, the Howard Government provided \$2.2 billion in CRA funding, as opposed to \$970.6 million in CSHA funding.

In terms of public housing, this shift in funding emphasis has meant that public housing stock has decreased as state and territory public housing authorities have been squeezed for funds. Through the CSHA, in 1996–97 the stock of public housing was around 375 000 dwellings, which was then about five per cent of Australia's total housing stock. In subsequent years, however, there was little or no growth in public housing stock and, as at 30 June 2008, the total number of public rental dwellings managed by state and territory housing authorities had fallen to 337 866.³¹

A reduction in the amount of public housing stock has resulted in a reduced capacity on the part of governments to provide affordable housing to those most in need. Waiting lists for public housing are increasing. As at 30 June 2008, 177 652 households were on waiting lists for public rental housing. Of these households, 14 638 were classified as being in 'greatest need'. This number represented eight per cent of all households on waiting lists.³²

Increasingly, the public housing that is available is being used for emergency housing needs – to assist those estimated 100 000 Australians who are homeless on any given night and those individuals and households that are at risk of becoming homeless. In effect, public housing is becoming welfare housing.

At the same time, rents in the private market are increasing apace. Rents increased by an average of 12 per cent during 2006–07 and a major report has predicted rent rises of 50 per cent in major cities over the next four years.³³ Because there has been an upward shift in the distribution of private rental stock towards higher-rent properties, higher-income households have displaced lower-income households from more affordable housing in the private rental market.³⁴ While these lower-income households may receive

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30. The Australian Institute of Health and Welfare (AIHW) does, however, caution that the shift in expenditure should be interpreted with caution due to the differing nature of the programs. For further detail see Australian Institute of Health and Welfare, *Australia's Welfare 2007*, AIHW, Canberra, 2007, p. 222, <http://www.aihw.gov.au/publications/index.cfm/title/10527>, accessed on 9 February 2009.
31. Australian Institute of Health and Welfare, *Public rental housing 2007-08: Commonwealth State Housing Agreement national data report*, AIHW, Canberra, January 2009, <http://www.aihw.gov.au/publications/hou/prh07-08/prh07-08.pdf>, accessed on 6 February 2009.
32. *ibid.*
33. Australian Property Monitors, *Quarterly APM–Domain Rental Series–March*, media release, APM, 3 April 2008.
34. J. Yates et al., *Housing Affordability: a 21st century problem. National Research Venture 3: Housing affordability for lower income Australians*, Final Report no. 105, Australian

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Commonwealth Rent Assistance, this assistance is capped and, once the maximum rate (which is indexed twice each year to reflect changes in the consumer price index) is reached, any rent increases are borne by CRA recipients. It should also be noted that CRA is paid at a universal rate across the country. This renders it a ‘blunt instrument’, and one that cannot take into account variations in rental prices across jurisdictions.

Recent Rudd Government measures

As a part of the 2008–09 Budget, the Government signalled that it would be reforming the framework for federal financial arrangements. This involved a rationalisation of existing Commonwealth housing and homelessness assistance programs under the new National Affordable Housing Agreement, which was introduced from 1 January 2009. This Agreement is to provide funding of \$6.2 billion over five years from 2008-09.

Under the National Affordable Housing Agreement, the states and territories are to pursue reforms in three areas of National Partnership, one of which is social housing. Under the social housing national partnership, \$400 million is to be provided over the next two financial years for capital investment for social housing and homelessness, with approximately 1 600 to 2 100 additional dwellings to be built by 2009-10. While this investment will, along with the National Rental Affordability Scheme and A Place to Call Home strategy, improve housing affordability in Australia to a degree, it will not add substantially to the public housing supply.³⁵ And without a significant increase in Australia’s public housing sector, some commentators argue that the nation will fail to meet future demand for secure, low-cost housing.³⁶

Housing and Urban Research Institute (AHURI), September 2007, http://www.ahuri.edu.au/downloads/NRV3/AHURI_Final_Report_No105_Housing_affordability_a_21st_century_problem.pdf, accessed on 9 February 2009.

35. The National Rental Affordability Scheme aims to strengthen financial incentives to encourage investors to provide affordable private rental properties. Measures that promote private investment in affordable housing are an important means of ensuring the future of housing affordability in Australia for low income earners. However, it should be noted that the scheme is likely to take a number of years to become fully effective. See J. Disney, ‘[The hardship of unaffordable housing](#)’, *Australian Options*, Summer 2008/09, p. 8.
36. See, for example, S. Schrapel, ‘Boost public housing to halt homes crisis’, *Sunday Mail Adelaide*, 13 April 2008, p.75, http://parlinfoweb.aph.gov.au/piweb/TranslateWIPILink.aspx?Folder=pressclp&Criteria=CITATION_ID:YQ5Q6%3B, accessed on 16 May 2008; and Australian Council of Social Service, *Towards a Fairer Australia, ACOSS 2007 Election Statement*, Paper 151, October 2007, http://www.acoss.org.au/upload/news/3391_Paper%20151%20Towards%20a%20fairer%20Australia.pdf, accessed on 16 May 2008.

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Greens policy position

Greens Senator Scott Ludlum recently proposed that the Government invest an initial \$2 billion in public and not-for-profit housing to enable the construction of more than 6 000 homes for low-income families. Ludlum went on to argue that ‘the Government needs to pump sufficient funds into public housing, to bring down waiting lists and provide relief to these families’.³⁷

Position of significant interest groups

Comment on the Commonwealth Social Housing Initiative has been almost universally positive, with community groups, the housing industry and state governments all expressing their support for the package.

While community groups have noted that there is still more work to be done in improving housing affordability in Australia, and thereby assisting the most disadvantaged in the community, they hailed the package as a significant contribution towards the realisation of these goals.

Michael Perusco, Chief Executive of the Sacred Heart Mission, has commended the government for its actions in assisting the disadvantaged through the public housing stimulus package. He has argued that the package has ‘returned public housing to its rightful places as a key part of social policy, sending the powerful message to policymakers, advocates and the community that public housing must be a priority’.³⁸

Executive director of Catholic Social Services, Frank Quinlan, stated that he was ‘delighted’ with the package, and urged state governments to ‘get behind it quickly’.³⁹

Julian Disney, chairman of the National Affordable Housing Summit, has noted that the initiative represents the biggest expenditure on public housing ‘for at least a quarter of a century’, and a ‘quantum leap in commitment to resources badly needed and much overdue for many years’.⁴⁰

NSW Master Builders Association’s executive director Brian Seidler welcomed the package, and is reported as having stated that anything that gives the building industry a kick along is good news.⁴¹ Managing director of the Housing Industry Association, Ron

37. S. Ludlum, ‘[Boost public housing and jobs: Greens](#)’, *Media Release*, 28 January 2009.

38. M. Perusco, ‘[Help on the home front](#)’, *The Age*, 5 February 2009.

39. J Massola, ‘Building support: halfway to housing the homeless’, *Canberra Times*, 4 February 2009.

40. T. Colebatch and D. Cooke, ‘[Surprise \\$6.6bn to create 20,000 houses](#)’, *The Age*, 4 February 2009.

41. J. Dillon, ‘Builders, tradies harder to nail down’, *The Daily Telegraph*, 4 February 2009.

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Silberberg is supportive of the package on the grounds that it will provide a ‘much needed boost’ for construction work, with the 20 000 new dwellings creating as many as 35 000 new jobs in the building and related industries.⁴²

The states, too, have welcomed the package.⁴³ West Australian Treasurer Troy Buswell has noted that it complements a \$316 million Western Australian stimulus package to build 1 000 new homes for low-income families and government workers.⁴⁴ NSW Housing Minister David Borger and Victorian State Housing Minister Richard Wynne have both expressed their strong support for the package, indicating that the investment would help create around 9 000 and 5 000 homes, respectively.⁴⁵

Key issues

Various concerns have been raised in relation to the Commonwealth Social Housing Initiative. For one thing, initially it was not clear precisely on what basis funding for the initiative was to be distributed to the states. This led NSW Housing Minister David Borger to observe that ‘if the funding is distributed to the states on a per capita basis then NSW would be entitled to receive approximately one third of the \$6.4 billion’.⁴⁶ Victorian Council of Social Service policy spokesman David Imber is reported as having stated that Victoria should benefit from at least a quarter of the spending, but gave no indication as to how this figure was arrived at.⁴⁷ The West Australian Government is reported as viewing the package as good news for Western Australia, so long as the money is shared between the states on a per-capita basis.

According to the recently-released Council of Australian Governments National Partnership Agreement on the Nation Building and Jobs Plan, funding is to be allocated to the states ‘generally on a per capita basis, subject to jurisdictions submitting suitable proposals that meet the requirements of the initiative’.⁴⁸

42. J. Massola, op. cit.

43. Council of Australian Governments, [Special Council of Australian Governments Meeting, Nation Building and Jobs Plan Communiqué](#), Canberra, 5 February 2009.

44. I. Salusinszki and M. Denholm, ‘Thumbs up from all the premiers – Rudd’s \$42 billion rescue’, *The Australian*, 4 February 2009.

45. M. Farr, ‘[Rudd chalks up a survival plan](#)’, *Daily Telegraph*, 4 February 2009 and T. Colebatch and D. Cooke, ‘Surprise \$6.6bn to create 20,000 houses’, *The Age*, 4 February 2009.

46. M. Farr, op. cit.

47. T. Colebatch and D. Cooke, op. cit.

48. Council of Australian Governments, National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now, p. 13,

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The success or otherwise of the package—should the Bill be passed—is very much dependent upon the cooperation of the states, and on their capacity to deliver on the package. Some commentators have argued that the states have a poor record in delivering on infrastructure development commitments, and are ill-equipped to promptly execute such commitments.⁴⁹ However, it should be noted that the appointment of national coordinators at Commonwealth and state levels to maximise the timely and effective delivery of the package should go some way towards addressing such concerns. The fact that the Australian Government drew on data from the states—including data on the number of housing projects that were already in their development pipelines—in developing the package, further enhances the likelihood of its success.⁵⁰ That said, it is to be expected that some states will be in a better position to commence construction projects than others.

Much will depend on the capacity of the building and construction industry to cater to the substantial boost in building activity entailed by the economic stimulus package as a whole.

Another issue has to do with maintenance of the newly-constructed public housing stock. If the new housing is to be adequately maintained so as to not fall into disrepair, then this will demand that sufficient funding be allocated under the National Affordable Housing Agreement in the future. The National Partnership Agreement on the Nation Building and Jobs Plan includes a provision for improved maintenance benchmarks for social housing, but in the absence of sufficient funding for these benchmarks to be met, there is a risk that the quality of the new public housing stock may decrease.

Comments

It is generally agreed that supply-side responses to the current housing affordability crisis are essential, the reason being that focusing primarily on providing Commonwealth Rent Assistance to supplement private rental merely stimulates demand and increases housing rental costs. It has done nothing to increase the supply of affordable, public housing.

Should the Appropriation (Nation Building and Jobs) Bill (No. 2) 2008–2009 be passed, and the Commonwealth Social Housing Initiative implemented, this would help to reduce public housing waiting lists and assist in reducing the number of homeless Australians.

http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf, accessed 6 February 2009.

49. See, for example, Editorial, '[Perhaps the politics are right](#)', *The Canberra Times*, 4 February 2009; Editorial, 'Hasty plan needs scrutiny', *Australian Financial Review*, 5 February 2009.
50. See L. Taylor, 'PM warns states on funding 'rules' – Rudd's \$42 billion rescue', *The Australian*, 4 February 2009.

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Land transport

Appropriation (Nation Building and Jobs) Bill (No. 2) 2008–2009 appropriates \$230 million for land transport. Of this, \$150 million is for repairs to national highways, \$50 million is for boom gates for rail crossings, and an additional \$30 million is for the Black Spot program.

Repairing regional links on the national highway network

The government will provide \$150 million in 2008–09 to repair regional links on national highways. According to the government, in addition to preventing the deterioration of national highways, this will create jobs in regional areas including those where jobs are being lost due to the contraction in the mining sector.⁵¹

The Commonwealth provides \$300 million annually to the states for maintenance of national highways. Funding is allocated among the states using a formula. The formula combines each jurisdiction's proportion of the national total of lane length, total vehicle distance travelled, and total heavy vehicle distance travelled to determine the amount of funding each jurisdiction will receive.⁵² The states determine how the funds will be spent.

Boom gates for rail crossings

The government proposes to provide \$150 million over two years—\$50 million in 2008–09 and \$100 million in 2009–10—to improve road and rail safety by funding the construction of boom gates at rail crossings. According to the government, there are around 9400 rail crossings the great majority of which do not have active protection. Projects will be prioritised using the [Level Crossing Assessment Model](#), a safety risk assessment tool used across Australia.⁵³ The allocation of funds for this purpose is presumably in response to several highly-publicised crashes at rail crossings which have entailed a considerable cost in lives and damage.

Black Spot program

The government will provide additional funding of \$90 million over two years—\$30 million in 2008–09 and \$60 million in 2009–10—for the road safety [Black Spot Program](#).

51. *Updated Economic and Fiscal Outlook*, February 2009, p. 70, at http://www.budget.gov.au/2008-09/content/uefo/download/UEFO_06_Appendix_B.pdf. Accessed 6 February 2009.

52. Department of Infrastructure, Transport, Regional Development and Local Government website at http://www.auslink.gov.au/funding/projects/network_maintenance.aspx. Accessed 6 February 2009.

53. *Updated Economic and Fiscal Outlook*, op. cit. See further <http://www.levelcrossings.nsw.gov.au/assessment.htm>, accessed 10 February 2009.

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The program aims to reduce the social and economic costs of road accidents through the identification and cost effective treatment of dangerous locations on Australian roads. This measure is in addition to the \$60 million increase in funding in 2008-09 for this program announced as part of the Government's Nation Building Package on 12 December 2008.⁵⁴

There have been several benefit-cost assessments of the Black Spot program. The studies indicate that the program has had very high benefit-cost ratios. For example, the Bureau of Transport Economics, found:

Overall, the Black Spot Program appears to have been highly effective in reducing the number of casualty crashes. It is estimated that the Program prevented around 32 fatal crashes and 1 539 serious crashes between 1996–97 and 1998–99. The Program is therefore estimated to have saved at least 32 lives and prevented a large number of injuries over these three years. Further benefits will continue to accrue over the life of the black spot treatments that were applied.⁵⁵

The overall benefit-cost ratio was 16.2. This means that the value of the benefits was 16.2 times the cost.

Regional and Local Community Infrastructure Program: Strategic Projects

The government will provide an additional \$500 million over two years—\$250 million in each of 2008–09 and 2009–10—to support strategic projects being undertaken by local governments including the construction of community infrastructure such as town halls, community centres and sport and recreation facilities. According to the government, this measure will allow a greater number of projects to be funded from the current applications for the Local Community Infrastructure Program. This measure is in addition to the \$300 million in 2008–09 for the [Regional and Local Community Infrastructure Program](#) announced at the Inaugural meeting Australian Council of Local Governments on the 18 November 2008.⁵⁶

Main provisions

For the most part, the Bill's provisions are identical to those in Appropriation Bill (No. 2) 2008-09. The main difference is that the Bill omits provisions in Appropriation Bill (No. 2) 2008-09 dealing with the Advance to the Finance Minister.

54. *ibid.*

55. Bureau of Transport Economics, *The Black Spot Program 1996–2002. An Evaluation of the First Three Years*, Report 104, 2001, p. xv, at <http://www.bitre.gov.au/publications/48/Files/r104.pdf>. Accessed 10 February 2009.

56. *Updated Economic and Fiscal Outlook*, op. cit., p.69, and see further http://www.infrastructure.gov.au/local/rlcip_guidelines.aspx, accessed 10 February 2009.

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Part 1—Preliminary

Clause 3 contains definitions. Most definitions are identical to those in *Appropriation Act (No. 2) 2008-09*. The following are some of the definitions in **clause 3**:

- CAC Act body: this is a Commonwealth authority or company within the meaning of the *Commonwealth Authorities and Companies Act 1997*
- CAC Act body payment item: this is the amount set out in **Schedule 2** in relation to a CAC Act body
- Chief Executive is defined as having the same meaning as in the *Financial Management and Accountability Act 1997*, and
- Portfolio Supplementary Additional Estimates Statements means the Portfolio Supplementary Additional Estimates Statements that were tabled in the Senate or the House of Representatives in relation to the Bill for this Act and the Bill for the *Appropriation (Nation Building and Jobs) Act (No. 1) 2008-2009*.

Part 2—Appropriation items

Clause 6 provides that the total of the items in **Schedule 2** is \$1 727 200 000.

Clause 7 deals with payments to the states, territories and local governments. **Subclause 7(2)** specifies that if the Portfolio Budget Statements, Portfolio Supplementary Estimates Statements, Portfolio Additional Estimates Statements or Portfolio Supplementary Additional Estimates Statements indicate that certain activities are intended to be for a particular outcome, then expenditure on those activities is taken to be as contributing to the outcome.

Clause 8 deals with ‘administered items’. **Subclause 8(1)** provides that the amount identified for an administered item in an outcome can be used to contribute to that outcome. The wording of **subclause 8(2)** is identical to that in **subclause 7(2)**.

Clause 9 deals with administered assets and liabilities. **Subclause 9(1)** provides that the amount identified for an agency’s administered assets and liabilities may be applied to achieving any of the agency’s outcomes, which are specified in **paragraphs 9(1)(a) to 9(1)(h)**. **Subclause 9(2)** specifies that if the Portfolio Budget Statements, Portfolio Supplementary Estimates Statements, Portfolio Additional Estimates Statements or Portfolio Supplementary Additional Estimates Statements indicate that certain activities were intended to be for a particular outcome, then expenditure on those activities is taken to be as contributing to the outcome.

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Clause 10—Other departmental items—provides that the amount specified in an other departmental item for an Agency may be applied for the departmental expenditure of the Agency.

Clause 11 deals with CAC Act body payments. **Subclause 11(1)** provides that an amount, appropriated for a CAC Act body payment item, may be paid to the body for that body’s purposes. **Subclause 11(2)** provides that if an Act provides that a CAC Act body must be paid amounts that are appropriated by the Parliament for the purposes of the body, and **Schedule 2** contains a CAC Act body payment item for that body, then the body must be paid the full amount specified in the item. According to the Explanatory Memorandum:

The purpose of subclause 11(2) is to clarify that subclause 11(1) is not intended to qualify any obligations in other legislation regulating a CAC Act body, where that legislation requires the Commonwealth to pay the full amount appropriated for the purpose of the body.⁵⁷

Part 3—Adjusting appropriation items

Three clauses in **Part 3** deal with reductions to appropriations:

- **clause 12** deals with reductions of (a) payments to the states, territories and local governments and (b) administered items
- **clause 13** deals with reductions of (a) administered assets and liabilities and (b) other departmental items, and
- **clause 14** deals with reductions to CAC Act bodies payment items.

Subclause 12(1) stipulates that the amount by which payments to the states, territories and local governments and for administered items can be reduced is the difference between what has been appropriated and what has been spent, the latter being the amount shown in agencies’ financial statements. However, **paragraph 12(2)(a)** gives the Finance Minister power to determine that **subclause 12(1)** does not apply or that **subclause 12(1)** applies as if the amount in the annual report were the amount that the Finance Minister determines **paragraph 12(2)(b)**. The Explanatory Memorandum states:

The power in paragraph 12(2)(b) is to ensure that the amount published for the item can be corrected if, for example, the amount is erroneous or requires updating after an agency’s annual report is published.⁵⁸

Subclause 12(3) provides that a determination made under **subclause 12(2)** is a legislative instrument, that section 42 (relating to disallowance) of the [Legislative Instruments Act](#)

57. Explanatory Memorandum, Appropriation Bill (No. 4) 2008-09, p. 8.

58. *ibid.*, p. 9.

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[2003](#)⁵⁹ applies to the determination, but that Part 6 (relating to sunset provisions) of the *Legislative Instruments Act 2003* does not apply to the determination. In short, this means that the Finance Minister’s determinations are disallowable by Parliament, but once made, will not expire.

Subclause 13(1) enables the minister responsible for an agency, or—where the Finance Minister is responsible for the agency—the chief executive of the agency, to seek a reduction in administered assets and liabilities, and other departmental items, while **subclause 13(2)** empowers the Finance Minister to make a determination that accords with the request. However, the determination cannot reduce the appropriation below zero (**subclause 13(3)**). Requests are not legislative instruments (**subclause 13(5)**). While the Finance Minister’s determinations are legislative instruments and are disallowable, the determinations—like those in **subclause 12(3)**—are not subject to the sunset provisions of the *Legislative Instruments Act 2003* (**subclause 13(6)**).

The wording in **clause 14**—which deals with reductions to CAC Act bodies payment items—is almost the same as for **clause 13**. However, whereas a request can come from the Chief Executive of an agency for which the Finance Minister is responsible in the case of **clause 13**, a similar request must come from the Secretary of the Department in the case of CAC Act bodies (**paragraph 14(1)(b)**). **Subclause 14(5)** confirms that a reduction can be made for a CAC Act body even though it has been allocated funds under **subclause 11(2)**.

Part 4—Miscellaneous

Clause 15—Crediting amounts to Special Accounts provides that if a purpose of a special account is a purpose that an item covers—irrespective of whether that item expressly refers to the special account—then amounts may be debited against the appropriation for that item and credited to the special account.

Clause 16 deals with the conditions attached to grants of financial assistance to the states, territories and local governments.

Section 96 of the Constitution provides in part:

... the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

According to the Explanatory Memorandum, **clause 16**:

59. Available at
<http://www.comlaw.gov.au/ComLaw/Management.nsf/lookupindexpagesbyid/IP200402738?OpenDocument>, accessed 10 February 2009.

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... deals with Parliament's power under section 96 of the *Australian Constitution* to provide financial assistance to the States. Clause 16 delegates the power to the responsible Ministers listed in Schedule 1 of the Bill, by providing the Ministers named in Schedule 1 with the power to determine:

- conditions under which payments to the States, the ACT and NT and local councils may be made: paragraph 16(2)(a); and

- the amounts and timing of those payments: paragraph 16(2)(b).⁶⁰

Subclause 16(1) provides that it applies to payments to the states, territories and local government for the outcomes listed in column 2 of **Schedule 1**. **Paragraph 16(2)(a)** provides that payments must accord with the conditions attached to the payments—as established by the process set out in **subclause 16(3)**—and also with any determination as to the amounts and timing of payments **paragraph 16(2)(b)**. **Subclause 16(3)** provides that the way terms and conditions are established is for the relevant Minister to make a determination in writing before or after the Act commences. **Subclause 16(4)** provides that determinations mentioned in **paragraph 16(2)(a)** and determinations made under **paragraph 16(2)(b)** are not legislative instruments. The Explanatory Memorandum explains that the reason is:

... because the determinations are not altering the appropriations approved by Parliament. Determinations under subclause 16(2) will simply determine how appropriations for State, ACT, NT and local government items will be paid. The determinations are issued when required. However, payments can be made without either determination.⁶¹

Schedule 1 lists the agencies responsible for making payments to the states, territories, and local governments, the outcomes for which payments are made, and the names of the Ministers responsible for determining conditions and for determining payments.

Schedule 2 lists the services for which money is appropriated. The appropriations are broken down by agency, and by the form that the payments take. In this case, all payments are to the States, ACT, NT and local government.

60. Explanatory Memorandum, p. 12.

61. Explanatory Memorandum, p. 13.

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