APPENDIX 3

Infrastructure Borrowings Tax Rebate[1]

The programme is available for new road and rail projects and their related facilities and as a transitional measure, for project proponents that had made applications for the Infrastructure Borrowings Taxation Concession at the time the concession was terminated, and for extensions of projects that had previously been certified to use the concession.

Detailed below are some of the main conditions of the new tax rebate scheme:

- the rate of the rebate will be set at the lower of the financier's current year marginal tax rate or 36 per cent, the current company tax rate;
- the rebate will be available for up to five years from the time of first borrowing for a qualifying project;
- the rebate will not be tradeable and will be applied only against tax payable in respect of the income year in which the financier treats the interest as assessable income;
- the rebate will be capped at $75 million per annum (including running costs). Once this cap has been reached, further rebates will not be approved and there will be no avenue of appeal against the government decisions on a project's eligibility;
- applications for the rebate will be called for twice a year by the Commission for Taxation; and
- applications will be assessed against certain criteria in two stages.

Projects will assessed against all criteria, and so a project need not be preferred on every criterion to be assessed favourably.

Stage 1

Initially projects will be examined to determine whether they:

- fall into an eligible category for assistance;
- involve genuine private provision of new public infrastructure; and
- have been subject to benefit-cost analysis.

To satisfying the requirements of Stage 1, applications will need to meet the following criteria:

[1] Extracted from the 1997-98 Budget Statements

- The eligible categories of new public infrastructure are road and rail projects and their related facilities and, as a transitional measure, projects that had applications for IBs pending at the time of the 14 February 1997 announcement and extensions of projects that had previously been certified to use IBs.

- Only genuine private sector proponents which provide new public infrastructure will be able to access the tax rebate. Private sector proponents will only be able to access the rebate while they pass the tests contained in section 51AD and Division 16D of the *Income Tax Assessment Act 1936*.

Stage 2

In stage 2, only projects which have fully satisfied the requirements of stage 1 will be assessed. The basis for assessment will be:

- The viability of the project from a commercial feasibility viewpoint. Projects must be commercially viable. A lack of material to support claims of commercial feasibility will be interpreted as indicating no commercial feasibility.

- The extent to which the project would not proceed without the rebate. Commercially feasible projects which are unlikely to proceed without the rebate will be preferred to projects which are likely to proceed regardless of whether they are granted the rebate. A lack of material to support claims that the project would not proceed without the rebate will be interpreted as indicating that the project would proceed regardless.

- The extent to which the tax benefits arising from the tax rebate flow to the infrastructure project proponent. Higher levels of tax benefits flowing to the infrastructure project proponent will be preferred to projects where lower levels of tax benefits flow to the project proponent. A lack of material to support claims of tax benefits flowing to the project proponent will be interpreted as indicating low levels of flow to the project proponent.

- The estimated present value of the cost to the revenue of the tax rebate being granted to the project relative to the present value of total project expenditure. Projects with lower ratios of present value cost to the revenue to present value of the total expenditure will be preferred to projects with higher ratios. A lack of material to support claimed cost to the revenue ratios will be interpreted as supporting the highest cost to revenue ratio consistent with known features of the project.

- The nature and extent of:

  - any national economic and social benefits from the project that are unlikely to be captured by the project proponent; and

  - any wider economic and social costs that are unlikely to be borne by the project proponent

  because of market failures, externalities or spillover effects. Projects with higher balances of such benefits over such costs relative to total project expenditure will be preferred to projects with lower balances relative to total project expenditure.

- The consistency of the proposed investment with any relevant Commonwealth or State policy or planning objectives. Projects meeting relevant Commonwealth or State policy or planning objectives will be preferred.

The degree of open and public consultation with those affected by the project. Greater levels of consultation will be preferred.