

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Infrastructure and Regional Development

Subject - *National Land Transport (Exemption from Public Tenders for State Projects) Determination 2014*

Subparagraph 24(1)(c)(vi) of the *National Land Transport Act 2014* allows for work on a funded project to be exempt from public tender requirements if it is less than an amount determined by the Minister.

Subsection 24(4) of the *National Land Transport Act 2014* provides that the Minister may determine the amount under which work is exempt from public tender requirements through a legislative instrument. Accordingly, the *National Land Transport (Exemption from Public Tenders for State Projects) Determination 2014* prescribes an amount (\$100,000) below which work on a funded project can be exempt from public tender requirements.

The decision to set this amount was based on the need to simplify procurement processes, yet still manage risk. In the construction industry an infrastructure project below this amount would be viewed as minor in nature, therefore the cost of conducting a tender process would likely outweigh the benefits. This takes into consideration the cost and time requirements of a tender process, and will also reduce the regulatory burden on jurisdictions by simplifying the procurement process.

This means that works exempt from public tender by subparagraph 24(1)(c)(vi) are likely to be works of a similar nature to those outlined in subparagraphs 24(1)(c)(i)-(iv), which may also be exempt from public tender requirements if Ministerial exemption is granted. The works included under subparagraphs 24(1)(c)(i)-(iv) are works of such a minor nature that the invitation of tenders would involve undue additional cost; or where the work is of a kind which is not practicable to prepare tender specifications; or where competitive tenders are unlikely to be received.

Despite the exemption of public tender requirements for works less than \$100,000, appropriate levels of oversight will still be provided through the requirements under the funding approval and through terms of the National Partnership Agreement on Land Transport Infrastructure Projects. As currently drafted, this National Partnership Agreement requires reporting and appropriate measures to ensure transparency, value for money and protection of the Commonwealth's investment.

The instrument commences on 10 October 2014.

Authority: Subsection 24(4)  
of the *National Land Transport Act 2014*

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **National Land Transport (Exemption from Public Tenders for State Projects) Determination 2014**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

This legislative instrument prescribes an amount below which work can be exempted from public tender requirements for the purposes of Subsection 24(4) of the *National Land Transport Act 2014*.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Warren Truss, Minister for Infrastructure and Regional Development**