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Creating
wealth through
infrastructure

Ms N. Skaka
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Portfolio Committee on Economic Development
Parliament of South Africa
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Dear Madam

COMMENTS TO THE DRAFT INFRASTRUCTURE DEVELOPMENT BILL (the "Bill")

The comment from the South African National Roads Agency Limited (SANRAL) SOC, with respect to the Infrastructure Development Bill has reference.

As one of the State Owned Companies tasked with ensuring the successful delivery of the SIPs, SANRAL is grateful for the opportunity to provide constructive comment to the Draft Infrastructure Development Bill.

Given that SANRAL, along with all other SOCs, has engaged with the PICC Technical Task Team on Strategic Integrated Projects (SIPs) and that a number of concerns and comments have already been raised, we will restrict our comments to some of the legislative aspects of the Bill that may be in conflict with other pieces of legislation. However this does not preclude the risk of there being practical aspects of the Bill that could have unintended adverse consequences. During the SIP Coordinators meeting which took place on the 20 March 2013 one of the items on the agenda included a presentation on the Bill and the various SOCs in attendance were afforded an opportunity to raise pertinent points. Some of the overarching concerns raised by SANRAL and the SOCs include the following:

- The draft Bill seems to be at risk of disputes and potential clashes with other pieces of legislation; these include NEMA (Environmental Approvals/Authorisations); National Water Act (Water Licenses/General Authorisations); Mineral Resources Petroleum Development Act (Mining Permits) etc. In particular the timelines associated with appeals for a final decision to be made is not clear. Schedule 2 makes a bold effort to set the timelines, however the appeals process timeline is not addressed and neither the penalties/sanctions that will apply when these timelines are not met. Clarity with respect to the timelines will assist in streamlining the process and expeditiously implementing infrastructure projects. In order to minimize the potential conflicts it is recommended that this aspect be reviewed and explicitly addressed in the Draft Bill. It is suggested that the existing pieces of legislation be revised and aligned to the objectives of the draft Bill.
- With regards to Section 15 (1), SOCs should be provided with a detailed 'standard' list by all responsible spheres of government to ensure that time is not wasted due to vaguely expressed requirements. This would ensure consistency of approach so that SOCs can plan ahead. Legislation of the project could be overridden by a less capable Steercom. The objective is to provide support and assistance in terms of expediting the project.
- With regards to Section 18, Environmental assessments must include Water Use Authorisations and Mining Authorisations which are critical precursors for road construction project implementation.
- The Bill has to make provisions for dealing with disagreement and/or disputes between the parties in the Steering Committee.
- It would be preferable for the Bill to include the application of sanctions for not adhering to the timelines by all concerned.

An example of the conflicts between the draft Bill and other legislation is the impact of the draft Bill on our Statutory Control functions, such as the granting of access to and egress from national roads. Concerns have also been raised with regards to the implementation of the Bill in the context of the Spatial Planning Land Use Management Act (SPLUMA) and further clarity around this would provide some comfort.

The presumption against conflicting provisions in a General Act and a Special Act is brought to your attention and our hope that a General Act does not amend the provisions contained in a Special Act, i.e. the

proposed Bill will not amend the exclusive powers awarded to SANRAL, through the SANRAL Act.

Finally, clarity is sort on ultimately how the Bill will be used in practice but, should the goal be to fast track and efficiently drive infrastructure development without affecting the existing mandate of the SOC's and departments, it certainly could be of great assistance. Currently there are instances where the application of various regulatory measures that impede infrastructure development, purely because of the required volumes of paperwork which are often duplicated to different government departments, whose involvement are required with no actual benefit or clear purpose. According to Section 4(g) (ii) of the Bill, one of the functions of the PICC will be to determine this and hopefully streamline this process. We trust that the existing 'clutter' regarding authorisation will be removed to enhance efficiency and the process of approvals and authorisations will be expedited.

It is suggested that there should be a special division dedicated within departments to handle the projects that are designated as strategic so as to speed up the required authorisations. The establishment of Working Group 7 to facilitate the processing of Environmental Approvals is a positive step towards fulfilling this objective.

We have also taken note that the Bill needs to be more vocal with regard to the maintenance and upgrade of the infrastructure developed of SIP's and this is only noted in Section 4 (g) (h) as a function of the Commission and more accountability should be bestowed on the project owner with regards to ensuring asset preservation. In a number of cases the SIP project will be a critical anchor project that relies on supporting infrastructure and neglect of the supporting infrastructure could compromise the performance of the anchor project.

It is also envisaged in the Bill that the land required for SIPs may be expropriated by the Minister of Economic Development in terms of the Bill. This is one of the areas where there may well be a conflict between the draft Bill and the SANRAL Act.

Again we thank you for the opportunity to make a contribution above and hope you find this in order.

Yours sincerely



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Nazir Alli