

Jenny Gilruth MSP submission of 23 November 2023

Inquiry into A9 Dualling Project

Thank you for the invitation from your Committee to provide a written response seeking information on the advice I received on the progress of the A9 dualling project during my time as Minister for Transport. Dualling of the route is, as you know, a vital issue for many people across Scotland and particularly for those who live in the Highlands.

I have prepared the below response without assistance from Transport Scotland, although they have provided me with access to the relevant documentation I was provided with during my time as Minister for Transport.

I have separated my response into two sections – the first responds to the advice I was provided with by Transport Scotland and the second considers my reflections on the evidence the Committee has gathered to date.

Ministerial advice as Minister for Transport (MfT)

The Committee will be aware that I served as Minister for Transport from the period of January 25th 2022 until March 28th 2023. For the Committee's understanding, I was recused during this period from decision making around the Dunkeld section of the route.

I would summarise my experience of responding to the A9 during my tenure as being threefold in nature; the first being the increase in fatalities on the route, the second being progress on the dualling programme and the third being my Parliamentary statement in February this year, which confirmed the intention to re-tender the Tomatin to Moy section and that full dualling would not be possible by the original 2025 deadline set.

Turning first to the fatalities on the route, during my time as MfT there were a number of road traffic collisions (RTCs), which the Committee will be acquainted with. Each of these fatalities were devastating for the families and friends affected; and I was clear on the need to enact short term solutions to better enforce road safety ahead of full dualling as quickly as possible. To that end, I commissioned Transport Scotland to

prepare an urgent short term package of measures to address the recent safety performance of the route.

I engaged directly with Police Scotland on each of the respective RTCs on the route, to better understand the underlying contributory factors. I was grateful to Police Scotland for their advice and guidance throughout this process. I also Chaired a number of A9 safety meetings in Pitlochry and in Inverness, to engage directly with key partners in the communities directly affected.

Engagement with MSPs was also key; I chaired a roundtable with local elected members to discuss with them some of the short term actions I proposed that the Scottish Government would fund. I was grateful to MSPs for their engagement in this work, which culminated in the announcement last year of an additional £5m to support road safety.

[Written question and answer: S6W-13315 | Scottish Parliament Website](#)

Turning to the dualling programme itself, Ministerial advice at that time considered the financial challenges of dualling the remaining sections of the route – primarily through consideration of the capital funded option (design and build) or the revenue funded option (the mutual investment model).

I attended a number of internal meetings on the dualling project and received advice throughout my time as MfT. From the records I have been able to access, all of these meetings were also attended by my Cabinet Secretary and most were also attended by the relevant Cabinet Secretary for Finance, given the scale of the project.

My recollection of that time was the extreme financial challenge under which the Government was operating; I was already conscious of the inflationary impacts starting to affect the wider Transport sector. I recall market volatility, particularly in the second part of 2022, playing a significant role in impacting projected costs. Irrespective, the political will to fully dual the route remained absolute – the challenge for Government at that time, and as I understand it now, was how to dual the remaining sections as quickly and as affordably as possible.

Notwithstanding, I was pleased to announce the made orders for the Killiecrankie to Glen Garry section of the route in November of last year [Written question and answer: S6W-12140 | Scottish Parliament Website](#). This announcement meant that seven of the eight remaining sections now had Ministerial decisions to complete the statutory processes.

Turning to my Parliamentary statement on February 8th 2023 and the announcement in relation to the 2025 deadline and the Tomatin to Moy section, the advice received from officials set out the challenge in relation to value for money for this section of the A9. This had been exacerbated by the tender only receiving one final bid following the tender launch in 2021 (prior to my time in office). Whilst the tender was compliant and complete, the costs associated were judged not to represent best value. The clear advice from officials to Ministers was that the contract should not be awarded on these grounds.

I recall receiving separate advice in relation to the progress with the overall dualling project. This detailed the impact of external factors in relation to the 2025 deadline no longer being achievable – including the progressing of statutory approvals, delays due to the COVID pandemic, Brexit and the disruptive impact of the UK Government's 'mini budget' in terms of market volatility. It was agreed that a Parliamentary statement would seek to update the chamber on the decision to re-tender the Tomatin to Moy section and to communicate that the 2025 deadline was no longer achievable.

It was agreed that my Parliamentary statement would commit to direct engagement with the construction industry over potential improvements to Transport Scotland's standard design and build contract and then to commence re-procurement with the modified terms and conditions - to encourage an improved tender competition - with a target of making an award before the end of 2023.

My statement would also seek to provide an update on the previously agreed 2025 deadline for full dualling with the commitment given to return to Parliament to set out a renewed timescale for completion in Autumn 2023. [Parliament updated on A9 dualling programme | Transport Scotland](#)

Following my statement to Parliament, I wrote directly to local MSPs on the update and offered to convene a meeting with them, along with Transport Scotland and relevant stakeholders, following the re-tendering commencement for Tomatin to Moy. I also met with relevant Council leaders from Highland Council and Perth and Kinross, recognising the impact of these decisions on local decision making.

Following the statement there were two substantive Parliamentary debates, in which I responded on behalf of the Government.

- [Meeting of the Parliament: 22/02/2023 | Scottish Parliament Website](#)
- [Meeting of the Parliament: 21/03/2023 | Scottish Parliament Website](#)

Reflections on evidence gathered to date

For the Committee's awareness, I met with the petitioner in January 2023. I commend her action in raising this petition and in further raising awareness over why dualling is so imperative for the people of Highland and rural Scotland. I do not, however, agree with her assertion that Ministers have not apologised or explained the delay to Parliament. I accept my role as a former MfT, and though only in position for 14 months, I have apologised fulsomely for the delay to the original 2025 deadline to the people and communities of the Highlands. I do so again in this response to the Committee, fully accepting my role as a former MfT.

I note at the Committee's first consideration of this petition, the comments from Fergus Ewing MSP in relation to the contracts surrounding the Tomatin to Moy section of the A9. I am familiar with Mr Ewing's views on this and sympathetic to the points he made during the meeting the Committee meeting held on 22.2.23 – he will understand that one of the actions I took as MfT was to instruct the reconsideration, with industry, of our design and build contracts to ascertain if there was another way in which these could be facilitated in the future, to make them more attractive to bidders. Of course, the challenge for any Government in designing contracts of this type, is the level of risk you might accept, versus the impact that risk could present to the public purse. I further note the evidence taken from the Civil Engineering Contractors Association (CECA) in relation to the type of contracts used by Transport Scotland for design and build projects. I reiterate the challenge all Governments face; which is to balance risk to the public purse with delivering projects on time and on budget.

It is worthwhile saying at this stage, that I understood Transport Scotland had been engaging directly with the original bidders during the procurement stage of the Tomatin to Moy section. I do not recall being

informed about any of the contractors raising concerns about the standard design and build contract at that time.

It may be that the Committee wishes to pursue this point further with Transport Scotland directly as I would not have engaged directly with potential bidders as MfT.

I would support the views expressed by the Director of Major Projects at Transport Scotland, Lawrence Shackman, who noted in the Committee's evidence:

'As Grahame Barn has said, 80 per cent of his members work for Transport Scotland. If they are not making a profit, they will not tender for us. We need to come together to ensure that we get a consensus and a reasonable risk profile for contractors to make a reasonable profit, at the same time as getting good value for the public purse. That is not easy.'

I note through the Committee's evidence gathering that there has been some reference to individual RTCs. I would encourage the Committee to speak privately with Police Scotland on these matters. In my experience it is extremely difficult to quantify dualling as a causation factor in the fatalities that have occurred on the road – this has always been the clear advice from Police Scotland, who we entrust to manage road safety in Scotland.

I note some of the evidence recorded by the Committee appears to conflate the Bute House Agreement with progress on dualling the route. As members have noted, the A9 dualling scheme is not part of the Bute House agreement.

In closing, Convenor, I again record my sincere apologies to the families of those who have lost a loved one on the A9. One life lost on Scotland's roads is one life too many. I know that Ministers remain resolutely committed to dualling the route as quickly and as affordably as possible; the people of the Highlands will expect no less.

I hope the enclosed is of use to the Committee in its important work on this matter. If members require any further detail or evidence, please do not hesitate to contact me.