Mrs Giulia Jones MLA

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

Dear Mrs Jones

I write about comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (Scrutiny Committee) in its *Scrutiny Report 14* published on 18 February 2018 in relation to the *Road Transport (Road Rules) Regulation 2017*.

Thank you for your consideration of this subordinate law. I note the Scrutiny Committee has sought my advice as to the justification for offences in this subordinate law needing to be offences of strict liability. I also note the Committee drew the Legislative Assembly’s attention to principles (1)(b) and (2) of the Committee’s terms of reference.

A revised explanatory statement has been prepared for the *Road Transport (Road Rules)
Regulation 2017*, to include a justification for the offences being strict liability offences and addressing any human rights implications of the regulations.

I note the Committee also identified that the *Road Transport (Road Rules) Regulation 2017* includes a provision identifying that an offence against the regulation is a strict liability offence, but the
*Road Transport (Safety and Traffic Management) Regulation 2017* does not contain a similar provision.

The *Road Transport (Safety and Traffic Management) Regulation 2017* is drafted in line with the Parliamentary Counsel’s Office Drafting Practice Guide, that is, it has the strict liability statement immediately after each offence.

This practice was departed from for the *Road Transport (Road Rules) Regulation 2017* in an effort to keep the provisions as close as possible to the Australian Road Rules (ARRs) on which they are based.

The ARRs are published (and amended) by the National Transport Commission (NTC), and do not include statements of strict liability. Including a statement of strict liability after each offence would have changed the internal subsection numbering of each offence provision, and would have made it more difficult to incorporate future amendments published by the NTC. Instead, a single statement of strict liability was included at the front of the Regulation. This is similar to the existing arrangement where the incorporation of the ARRs by the *Road Transport (Safety and Traffic Management) Regulation 2000* relies on a single statement of strict liability in section 4B of that Regulation.

A revised explanatory statement has also been prepared for the *Road Transport (Safety and Traffic Management) Regulation 2017*, to include a justification for the 11 strict liability and addressing any human rights implications of the regulation.

Copies of both revised explanatory statements have been enclosed for the information of the Committee.

I trust this advice assists the Scrutiny Committee and again thank you and the Committee for your comments on this regulation

Yours sincerely

Shane Rattenbury MLA

Minister for Justice, Consumer Affairs and Road Safety

Encl.