Ms Elizabeth Lee MLA

Chair

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

Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

Dear Ms Lee

I write about comments made by the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (Scrutiny Committee) in its *Scrutiny Report 17* published on 4 May 2018 in relation to the *Road Transport Reform (Light Rail) Legislation Amendment Bill 2018* (the Bill) and the *Justice and Community Safety Legislation Amendment Act 2018*. The *Justice and Community Safety Legislation Amendment Act 2018* was passed by the Legislative Assembly on 10 April 2018.

I am responding on behalf of myself and the Attorney-General as the legislation in question, the *Heavy Vehicle National Law (ACT) Act 2013* and the *Rail Safety National Law (ACT) Act 2014*,fall within my portfolio responsibilities.

I note the Committee’s continuing concerns with extending the time for presentation of national regulations issued under these national laws to the Legislative Assembly.

Any amendment regulations or new regulations under these national laws are approved by all responsible Ministers through the Transport and Infrastructure Council (the Council). The Council brings together Commonwealth, State, Territory and New Zealand Ministers with responsibility for transport and infrastructure issues. The Council plays a key role in delivering national reforms to improve the efficiency and productivity of Australia’s infrastructure and transport systems, and ensuring these systems drive economic growth, increase employment opportunities, support social connectivity and enhance quality of life for all Australians. At present membership of this Council is shared between myself and the Minister for Transport and City Services. ACT secretariat responsibility for these meetings currently rests with the Transport Canberra and City Services Directorate.

Responsibility for distribution of minutes from the Council meetings rests with the Commonwealth Department of Infrastructure, Regional Development and Cities. Minutes of the meeting are not generally provided until papers are distributed for the next meeting and are not formally approved until the next meeting. Meetings of the Council are held every six months, with meetings of the Transport and Infrastructure Senior Officials’ Committee held every 3 months. The Committee advises and assists the Council on all non-infrastructure priorities.

Once any regulations are approved by the Council, the responsible jurisdiction arranges for the regulations to be notified. In respect to the Heavy Vehicle National Law, national regulations are passed through the Queensland Parliament and published on the NSW legislation register. For the Rail Safety National Law, national regulations are passed through the South Australia Parliament and published on the NSW Legislation Register.

The NSW legislation register does not have a function to obtain automatic notification of new statutory instruments. A Gazette is published every Friday notifying of the making of statutory instruments and Bill information. The Gazette is available on the NSW legislation register.

The practical implications of the way national laws are promulgated requires officers in my Directorate to manually monitor another jurisdiction’s legislation site to determine when the regulations have been published. In addition, my commitment to this Committee that all national regulations will be accompanied by an explanatory statement, adds to the timeframe required to present the regulations to the Assembly, as in most instances an explanatory statement is not prepared by the jurisdiction passing the regulations.

My Directorate undertakes appropriate consultation with relevant ACT stakeholders affected by any new or amendment national regulations. This consultation commences when my Directorate is first provided with any proposed new or amendment regulations. In addition, the relevant national regulators, the National Heavy Vehicle Regulator and the Office of the Rail Safety National Regulator, undertake extensive consultation prior to presenting any new or amendment national regulations to the Council for approval.

The extension of the presentation period for regulations under these national laws, is one component of ensuring that the ACT remains consistent with national regulatory frameworks and reduces the risk of national regulations being repealed in the ACT.

I appreciate the Committee’s concern that there may be an extended period between new regulations coming into effect and being presented to the Assembly. My Directorate is committed to ensuring that any national regulations are presented to the Legislative Assembly in a timely manner.

I thank the Committee for its report and careful consideration of this issue. I hope this response alleviates the concerns of the Committee.

Yours sincerely

Shane Rattenbury MLA

Minister for Justice, Consumer Affairs and Road Safety