

Jacinda De Witts
Deputy Secretary, People, Legal and Governance
Department of Transport and Planning
1 Spring Street
MELBOURNE VIC 3000

8 July 2025

Dear Ms De Witts,

REGULATORY IMPACT STATEMENT FOR THE TRANSPORT (COMPLIANCE AND MISCELLANEOUS) (CONDUCT ON PUBLIC TRANSPORT) REGULATIONS 2025

I would like to thank your staff at the Department of Transport and Planning (the Department) for working with the team at Better Regulation Victoria on the preparation of the Regulatory Impact Statement (RIS) for the *Transport (Compliance and Miscellaneous) (Conduct on Public Transport) Regulations 2025* (the proposed Regulations).

The Commissioner for Better Regulation is required to provide independent advice on the adequacy of RISs in accordance with the Subordinate Legislation Act 1994 Guidelines (the Guidelines). However, as the office of the Commissioner for Better Regulation is currently vacant, the Secretary to the Department of Treasury and Finance (or their delegate) is responsible for providing independent advice on the adequacy of RISs, in accordance with the Guidelines. The Secretary has delegated this responsibility to me in my capacity as Deputy Secretary of Economic Division.

A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so that it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received on 7 July 2025 meets the adequacy requirements set out in the *Subordinate Legislation Act 1994*.

Background and problems

Behaviour on public transport is regulated by the *Transport (Compliance and Miscellaneous) (Conduct on Public Transport) Regulations 2015* (the existing Regulations), which are made under the *Transport (Compliance and Miscellaneous) Act 1983* (the Act). The existing Regulations target harmful behaviours and are complemented by the *Transport (Compliance and Miscellaneous) (Ticketing) Regulations 2017* and *Victorian Fares and Ticketing Conditions (VFTC) 2025* which respectively regulate ticketing and specify the conditions of use for public transport.

The Department explains that through prohibiting harmful behaviours, the current Regulations:

- protect safety (for example by reducing tripping hazards by regulating the carriage of bikes)
- amenity (for example by banning littering to maintain cleanliness); and
- accessibility (for example, obligations to vacate priority seats for use by those with accessibility needs).

The Department explains that the existing Regulations also contribute to the smooth functioning of the public transport network through minimising disruptions that occur as a result of unsafe and unacceptable behaviour (for example pedestrians crossing or being on train tracks in an unsafe manner). The Department explains that the real and perceived risk of these harms reduces the usage of public transport, therefore decreasing the benefits generated through the provision of public transport.

The Department notes that some offences (such as marking graffiti) in the current Regulations align with offences prescribed under other legislation. The existing Regulations also prescribe powers for Authorised Officers (AOs) to undertake enforcement action related to conduct offences on public transport.

The Department explains that if the current Regulations were allowed to expire on 22 December 2025 without being remade, AOs would no longer be able to enforce a significant number of conduct offences on public transport. It notes that Victoria Police could still enforce the remaining offences covered under other legislation, but enforcement of more common but less serious offences (such as minor vandalism) would become less likely.

The Department explains that non-regulatory factors such as infrastructure, technology (CCTV cameras), operational systems, social norms (such as offering seats to other users with additional needs) significantly contribute to mitigating harmful behaviours, but do not adequately control these risks on their own. The Department also identifies additional problems related to the existing Regulations:

- **Changes in technology** – e-scooters and similar devices have become increasingly common and pose additional risks not accounted for in the existing Regulations. In particular, the Department identifies modified electric transportation devices and those used for commercial purposes as posing a particular fire risk on public transport.
- **Requirements to request priority seating** – current regulations set out that people sitting on priority seats or occupying priority areas must vacate them upon the request of a person with accessibility needs, which can risk awkward social interactions, where the person requesting may feel the need to prove their eligibility for the seat or area.
- **Ambiguous wording** – some wording in the existing Regulations is unclear, such as whether bicycles are allowed on shared paths that form part of a tram stop (such as on Swanston Street).
- **Inappropriate penalties and powers** – the existing Regulations set penalties which are not wholly consistent with the gravity of the offence. For example, under the existing Regulations it is an offence to have feet on seats with a maximum penalty of 5 penalty units (\$987.95), and an infringement penalty of 1.5 penalty units (\$296.39).

Options Analysis

The Department explains that non-regulatory options (such as information provision, education campaigns, infrastructure and technology) would not be sufficient on their own to address the problems identified above, particularly without the threat of enforceable penalties. However, it highlights that non-regulatory options have potential to enhance the effectiveness of regulatory interventions such as signage informing patrons of penalties disincentivising inappropriate behaviour.

The Department therefore analyses three regulatory options to remake the Regulations:

- **Option 1** - Remake the existing Regulations with minor changes to wording for clarity.
- **Option 2** - Similar to Option 1 but, with changes to improve safety and accessibility, such as:
 - Restrictions on the carriage of e-scooters and other electric transportation vehicles, including prohibiting the carriage of commercial e-bikes and aftermarket conversion e-bikes from trains and requiring e-scooters to be folded on public transport, prohibiting the charging or turning on of electric

transportation devices and prohibiting the riding of e-scooters on, or attaching to public transport vehicles

- Expansion of requirements to vacate a dedicated wheelchair area if required by a wheelchair user.
 - Establishing a new offence for the soiling of seats, as well as reducing the penalty for feet on seats
 - Removal of intoxication as a basis for an authorised person to request a person to leave public transport, whilst expanding grounds to request a person to leave based on language use and behaviour.
- **Option 3** - Broadly similar to Option 2, with additional safety and accessibility changes and further restrictions on electric transportation devices, specifically:
 - Prohibiting electric transportation devices (including e-bikes and e-scooters) from all trains and V/Line coaches.
 - Limiting the carriage of electric transportation devices on buses and trams to foldable e-bikes and foldable e-scooters only.

The Department compares costs of Option 1 to the base case, concluding that costs of the regulations (made up primarily of AOs' wages) would be offset by injuries avoided. Then, due to the qualitative nature of many of the impacts, such as improved experiences on, and perceptions of, the public transport network, and the difficulty of accurately quantifying the precise impacts of the proposed Regulations, the Department assesses options 2 and 3 against Option 1 using multi-criteria analysis (MCA). The MCA assesses the options against a base case of the regulations expiring without being remade. The objectives of the Department are reflected in the MCA. The Department employs the following criteria and weightings for the MCA:

- Safety (20%)
- Accessibility (10%)
- Amenity (10%)
- Protection of property (5%)
- Network functioning (5%)
- Restrictions on individuals (50%)

Option 1 is used as the reference case and is scored as a 0 for each criterion, with Options 2 and 3 then scored relative to Option 1. The Department explains that the scores for each Option element are assigned based on the severity of harm caused by their breach, the probability/frequency of incidents, and the likelihood that individuals will change their behaviour in response to regulations.

The Department identifies Option 3 as the preferred option, which would most effectively minimise misconduct on public transport. Although option 2 is identified as involving fewer restrictions on individual behaviour, Option 3 is preferred due to more significant safety, accessibility and amenity benefits. The department explains these will likely be achieved by addressing regulatory gaps (such as reducing fire risk through implementing restrictions on the carriage of electric transportation devices containing lithium-ion batteries) in the current Regulations and base case.

Implementation and Evaluation

The Department explains that it will continue to oversee the regulatory activities as part of its business-as-usual processes. The proposed Regulations are intended to take effect before the current regulations expire in December 2025. The Department explains that it will review the proposed Regulations before their sunset date to ensure that they are suitably addressing the problems identified.

The Department also explains that enforcement data, patronage data and customer experience data will be collected over the lifetime of the Regulations. The data used in the development of the RIS will be used as a baseline Department to monitor the effectiveness of the Regulations against their objectives.

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact Better Regulation Victoria on (03) 7005 9772.

Yours sincerely,



Paul Donegan

Deputy Secretary, Economic
Department of Treasury and Finance