Regulatory Impact Statement

Declaration for Smoke-free public transport waiting areas under the *Smoke-Free Public Places Act 2003*

1. Problem Identification

The *National Tobacco Strategy 2012-2018* (NTS) recommends that state and territory governments adopt policies that restrict smoking outdoors and where people gather or move in close proximity, including bus stops and taxi ranks. In the ACT *Future Directions for Tobacco Reduction 2013-2016* identifies a number of public places where smoking could be restricted, including in and around bus waiting areas.

The ACT Government recognises the value of public transport for reducing traffic congestion and pollution. Currently in the ACT smoking is not allowed inside public transport; however areas where people wait are not explicitly covered by smoking bans.

Public transport waiting areas are places that often attract large numbers of people, including school children, the elderly and people with disability. Commuters have limited ability to avoid exposure to second-hand tobacco smoke (SHS), also known as environmental tobacco smoke, when waiting for transport.

This regulatory impact statement considers options for establishing smoke-free areas at all ACT public transport waiting areas, including bus stops, taxi ranks, platforms and around ACT Government public transport vehicles. Public transport platforms include bus interchanges, light rail stations and train stations.

Smoking – an ongoing health and financial burden

Despite significant reductions in tobacco use over recent decades, tobacco smoking remains the single most preventable cause of death and disease in Australia.[1] Smoking is responsible for the death of up to two-thirds of current smokers in Australia aged 45 years and older, and is a primary risk factor for various cancers, respiratory and cardiovascular disease, and other illnesses.[2,3,4,5]

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[1] Australian Institute of Health and Welfare, Begg S, Vos T, Barker B, Stevenson C, Stanley L & Lopez A (2007) *The burden of disease and injury in Australia 2003*. Cat. no. PHE 82. Canberra: AIHW: http://www.aihw.gov.au/publication-detail/?id=6442467990.

[2] Banks E, Joshy G, Weber MF, et al. Tobacco smoking and all-cause mortality in a large Australian cohort study: findings from a mature epidemic with current low smoking prevalence, BMC Medicine. 2015; 13:38.

[3] Begg S, Vos T, Barker B, et al. The burden of disease and injury in Australia 2003. PHE 82. Canberra: Australian Institute for Health and Welfare, 2007. Available from: www.aihw.gov.au/publications/index.cfm/title/10317

[4] Institute for Health Metrics and Evaluation, The global burden of disease study 2010, GBD Profile: Australia. www.healthdata.org/sites/default/files/files/country_profiles/GBD/ihme_gbd_country_report_australia.pdf

[5] U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

The proportion of people in the ACT aged 18 years and over who are daily smokers is 9.9 per cent.[6] While this is the lowest figure in Australia, smoking-related harm remains a significant issue for the ACT.

Both active and passive smoking imposes significant costs on individuals, governments and communities, including direct medical costs and productivity losses. In 2004/05, the latest year for which national estimates are available, the total annual cost of tobacco use in Australia was estimated to be $31.5 billion.[3] This includes economic and social costs to government, business and the community.

To reduce smoking, governments have adopted multi-faceted strategies that focus on reducing demand, controlling supply, supporting quitting and protecting non-smokers. Smoke-free areas are an important and proven tool to reduce tobacco related harm in the community. They reduce exposure to SHS[7,8], help to denormalise smoking and assist smokers to quit or reduce their cigarette consumption.[9,10]

Health effects from exposure to second-hand smoke

Exposure to SHS can cause a range of adverse health effects including lung cancer and heart disease.[11] [12] SHS contains a mixture of particulate matter and thousands of chemicals, many of which are toxic or cancer-causing. These toxins can stay on surfaces and be released back into the environment, long after the period of smoking occurs.[13]

The United States Surgeon General has concluded that there is no risk-free level of SHS.[14] Even brief exposure to SHS can have adverse effects on non smokers, especially those with pre-existing respiratory and cardiac conditions.[15]

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[6] Australian Institute of Health and Welfare, *National Drug Strategy Household Survey detailed report: 2013*. (released online July 2014) Canberra: AIHW: http://www.aihw.gov.au/alcohol-and-other-drugs/ndshs-2013/.

[7] Callinan JE, Clarke A, Doherty K, Kelleher C, *Legislative smoking bans for reducing secondhand smoke exposure, smoking prevalence and tobacco consumption.* Cochrane Database of Systematic Reviews 2010, Issue 4. Art. No.: CD005992.

[8] International Agency for Research on Cancer, IARC Handbooks of Cancer Prevention, Tobacco Control, Vol. 13: *Evaluating the effectiveness of smoke-free policies,* Lyon, France, 2009.

[9] Fichtenberg CM and Glantz SA, *Effect of smoke-free workplaces on smoking behaviour: systematic review*, BMJ 2002, Vol. 325: 188.

[10] Chapman S, Borland R, Scollo M, Brownson RC, Dominello A and Woodward S, *The impact of smoke-free workplaces on declining cigarette consumption in Australia and the United States*, American Journal of Public Health 1999, 89(7), pp 1018–23.

[11] Scollo, MM, Winstanley, MH. *Tobacco in Australia: Facts and issues*. 4th edn. Melbourne: Cancer Council Victoria; 2012, Chapter 4. Available from: www.tobaccoinaustralia.org.au

[12] International Agency for Research on Cancer, IARC Monographs on the evaluation of carcinogen risk of chemicals to humans, Vol. 83: Tobacco Smoke and Involuntary Smoking, Lyon, France, 2004.

[13] Wilson KM, Klein JD, Blumkin AK, et al, Tobacco-Smoke Exposure in Children Who Live in Multiunit Housing. Pediatrics. 2011; 127:1:85-92.

[14] U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014.

[15] King BA, Travers MJ, Cummings KM, et al. Secondhand smoke transfer in multiunit housing. Nictotine & Tobacco Research. 2010; 12:1133–41.

SHS can be particularly harmful to children, due to differences in their lung development and breathing rates compared to adults.[16] Children also have limited control over their environment and may not be able to move away or otherwise limit their exposure to SHS.

Infants and children regularly exposed to SHS can suffer an increased risk of sudden infant death syndrome (SIDS), middle ear infections, respiratory infections, asthma, chronic cough, development delays and other conditions.[17] [18]

Although tobacco smoke tends to dissipate more quickly outdoors than indoors, it can still be a problem in outdoor areas. Bystanders can be exposed to harmful levels of tobacco smoke in various outdoor situations, particularly when in close proximity to active smoking.[19] [20] [21]

Smoking at ACT public transport waiting areas

An ACT Government community consultation regarding smoke-free areas conducted in late 2015 explored the issue of smoking at bus waiting areas in the ACT. The ACT community appears to be regularly exposed to SHS whilst at ACT bus waiting areas. The majority of respondents (94 per cent) indicated that they were exposed to SHS some or most of the time (48 per cent and 46 per cent respectively) at ACT bus stops and interchanges. Only six per cent indicated that they were never exposed to SHS.

Public transport waiting areas often attract large numbers of people, and use of public transport is a necessity for many members of the community. Commuters have limited ability to avoid exposure to SHS when waiting for public transport. This presents immediate health concerns for commuters in the ACT, including school children, people with disability and the elderly. Establishing a smoke-free zone within five metres of ACT public transport waiting areas would minimise exposure to SHS in these places.[22]

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[16] Office of Environmental Health Hazard Assessment and California Air Resources Board, *Health effects of exposure to environmental tobacco smoke: final report*, approved at the Panel's June 24, 2005 meeting. Sacramento: California Environmental Protection Agency, 2005. Available from: www.oehha.ca.gov/air/environmental_tobacco/2005etsfinal.html

[17] United States Department of Health and Human Services. The health consequences of involuntary exposure to tobacco smoke: a report to the surgeon general. Atlanta, Georgia: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Centre for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

[18] Falck AJ, Mooney S, Kapoor SS, et al. Developmental Exposure to Environmental Toxicants. Pediatric Clinics of North America. 2015; 62:5:1173-97.

[19] Klepeis N, Ott W and Switzer P, *Real-time measurement of outdoor tobacco smoke particles,* Journal of the Air and Waste Management Association 2007, 57(5):522–34.

[20] Stafford J, Daube M and Franklin P, *Second hand smoke in alfresco areas*. Health Promotion Journal of Australia 2010; 21(2), pp 99–105.

[21] Hess DB, Ray PD, Stinson AE and Park J, *Determinants of exposure to fine particulate matter (PM2.5) for waiting passengers at bus stops*. Atmospheric Environment 2010, 44, pp 5174–5182.

[22] Repace, J 2005, 'Controlling tobacco smoke pollution', ASHRAE IAQ Applications, vol. 6, no. 3.

A smoke-free area would reduce community exposure to role modelling of smoking behaviours and social cues to smoke. Over time, this would likely contribute to lowering the perceived acceptability of smoking, preventing initiation. [23,24,25]

The policy objectives outlined in this regulatory impact statement would not only apply to bus waiting areas, but to all public transport waiting areas in the ACT. It is therefore proposed that a smoke-free policy apply to all ACT public transport waiting areas, rather than assessing each waiting area on a case-by-case basis. This approach is also consistent with the approach in Queensland and New South Wales, and the recommendation in the NTS.

Smoke-free ACT public transport waiting areas may also contribute to a reduction in cigarette butt litter. Discarded cigarette butts may present health risks to infants and animals if ingested, and have been shown to leach toxic chemicals, including heavy metals, into soil and water.[26] [27] [28]

A smoke free public places community consultation in late 2015 indicated that the ACT community was highly supportive of smoke-free bus waiting areas, with 91 per cent of respondents providing support. Nine per cent of respondents did not support smoke-free areas at bus stops and interchanges.

An additional six-week community consultation was conducted in early 2017 which proposed making all public transport waiting areas smoke free, including bus waiting areas, taxi ranks, light rail stations, train stations and public transport vehicles. 581 complete submissions were received. 93 per cent of submissions supported the proposed policy option for smoke-free public transport hubs; five per cent did not support the proposal and 1.7 per cent were unsure.

Need for government action

Experience, in both the ACT and other Australian jurisdictions, has shown that regulation is usually necessary to effectively establish a smoke-free public place.[29] Community education and persuasion (e.g. voluntary smoke-free policies) are non-regulatory methods of pursuing smoke-free areas. However, such methods have

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[23] Alesci NL, Forster JL and Blaine T, *Smoking visibility, perceived acceptability, and frequency in various locations among youth and adults*, Preventive Medicine 2003, 36, pp 272-281.
[24] White VM, Warne CD, Spittal MJ, Durkin S, Purcell K and Wakefield AM, *What impact have tobacco control policies, cigarette price and tobacco control programme funding had on Australian adolescents' smoking? Findings over a 15-year period*, Addiction 2011, 106, pp 1493–1502.
[25] Wakefield MA, Chaloupka FJ, Kaufman NJ, Orleans CT and Barker DC, *Effect of restrictions on smoking at home, at school, and in public places on teenage smoking: cross sectional study*, BMJ 2000, 321, pp 333–337.
[26] Novotny TE, Hardin SN, Hovda LR, Novotny DJ, McLean MK and Khan S, *Tobacco and cigarette butt consumption in humans and animals*, Tobacco Control 2011, 20 (Suppl 1), pp i17-i20
[27] Moerman JW and Potts GE, *Analysis of metals leached from cigarette litter*, Tobacco Control 2011, 20 (Suppl 1), pp i28-i32
[28] Scollo, MM and Winstanley, MH, *Tobacco in Australia: Facts and issues*. 4th edn. Melbourne: Cancer Council Victoria; 2012, Chapter 10. Available from www.tobaccoinaustralia.org.au
[29] The Allen Consulting Group 2004, Possible Amendments to the *Smoking (Prohibition in Enclosed Public Places) Act 2003*: Regulation Impact Statement, ACT Health, Canberra

limited effectiveness due to entrenched views among some of the community. At best, information disclosure and persuasion are complementary strategies to regulation.[30]

Smoke-free ACT public transport waiting areas would assist in meeting the ACT government commitment to protect the health of the ACT community and to promote public health.

Action would also help the ACT to achieve results in key action area four of the Australian National Preventative Health Strategy, which identifies the need to eliminate exposure to SHS in public places by:

- amending legislation and departmental policies to ensure that smoking is prohibited in any public places where the public, particularly children, are likely to be exposed; and
- encouraging the adoption of policies that restrict smoking outdoors where people gather or move in close proximity.

The ACT and Western Australia are the only Australian jurisdictions that do not have legislation prohibiting smoking at bus stops. New South Wales and Queensland are currently the only two jurisdictions with comprehensive bans at all public transport waiting areas.

2. Objectives of Government intervention

Policy Objectives

The policy objectives are to:

- Protect the health of the ACT community by:
    - minimising exposure to SHS;
    - reducing exposure to smoking behaviour and denormalising the act of smoking;
- create a more supportive environment for people who have, or are trying to, quit smoking;
- ensure compliance with new smoking restrictions at ACT public transport waiting areas; and
- build on previous achievements in tobacco control through the creation of new smoke-free public places.

Existing government policy

In the ACT, smoke-free policy is administered by the Health Directorate. Smoke-free areas may be legislated by Ministerial Declaration under the *Smoke-Free Public Places Act 2003* (the Act). The object of the Act is to promote public health by minimising the exposure of people to environmental smoke.

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[30] The Allen Consulting Group 2004, Possible Amendments to the *Smoking (Prohibition in Enclosed Public Places) Act 2003*: Regulation Impact Statement, ACT Health, Canberra

Smoking is currently prohibited by legislation in: all enclosed public places; at outdoor eating and drinking areas; at underage functions; at ACT Government managed play spaces; and in cars when children are present. In addition, smoke-free policies apply at the Canberra Stadium and Manuka Oval; public schools and ACT Government buildings and health facilities, including public hospitals.

Smoke-free ACT Government policies do not currently apply to public transport waiting areas in the ACT. Smoking is prohibited inside public transport.

3. Options for achieving objectives

There are several options for establishing smoke-free public transport waiting areas in the ACT.

Option 1 (Non-regulatory): Maintain status quo

Continue to permit smoking at public transport waiting areas and rely on existing tobacco control initiatives at the jurisdictional and Commonwealth level to reduce smoking prevalence and smoking norms in the population. Over time, these initiatives may reduce the incidence of smoking at public transport waiting areas.

Option 2 (Non-regulatory): Education and awareness approach

Undertake increased education and awareness-raising in the ACT to reduce the incidence of smoking at public transport waiting areas. This could include community education campaigns and the provision of signage and other supporting resources.

Option 3 (Non-regulatory): Establish a smoke-free policy

Establish smoke-free areas at public transport waiting areas under ACT Government policy and rely on voluntary compliance among the community. The policy would be supported by community education campaigns and the provision of signage and other supporting resources.

Option 4 (Regulatory): Use Ministerial declaration power to legislate a smoke-free area

Use the Ministerial declaration power in the Act to legislate smoke-free public transport waiting areas. This would allow infringement notices to be issued for non-compliance. The legislation would be supported by community education campaigns and the provision of signage and other supporting resources.

4. Impact analysis of options

Key stakeholders are the ACT Government, the ACT community (particularly commuters), the National Capital Authority, NSW rail, private transport companies and businesses located in close proximity to public transport waiting areas.

Option 1: Maintain status quo

This option would involve no attempt to make public transport waiting areas smoke-free, but would instead rely on existing tobacco control initiatives in Australia to reduce smoking prevalence and change social norms regarding smoking behaviour.

Tobacco control initiatives over several decades, such as tax increases, plain packaging, smoking cessation support and health promotion activities, have supported significant reductions in tobacco use in Australia. Social norms have also changed so that smoking is no longer regarded as normal behaviour. In practice, this restricts the areas that society views as socially acceptable places to smoke.

In the absence of direct action targeting public transport waiting areas, the incidence of smoking at public transport waiting areas may reduce over time as a result of other ongoing tobacco control initiatives. However, it should be noted that any change to the incidence of smoking at public transport waiting areas is unlikely in the short or medium term.

In addition, smoking rates in Australia remain disproportionately high in vulnerable populations, such as low socio-economic groups and Aboriginal and Torres Strait Islander populations. Among the most disadvantaged groups smoking rates are up to five times higher than the population average.[31] Under this option, commuters using public transport waiting areas that are often used by such populations will likely continue to have comparatively high rates of exposure to SHS. This presents important social-equity considerations.

Option 1 – benefits and costs

Benefits	Costs
No additional legislation Government would not need to legislate for smoke-free areas at public transport waiting areas. **No implementation costs for government** Government would face no direct implementation costs, but would continue to pursue other tobacco control initiatives.	**Potential for criticism of ACT Government** The ACT Government may face criticism for lack of action from the community and public health organisations, as almost all other Australian jurisdictions have legislation for smoke-free areas at some or all public transport waiting areas. **Public health** Commuters, including school children, will likely continue to be exposed to SHS in the short and medium term at public transport waiting areas. Smoking behaviour will not be de-

[31] Stafford, J., Australian drug trends 2010: findings from the illicit drugs reporting system (IDRS), 2012, National Drug and Alcohol Research Centre.

	normalised at public transport waiting areas, which may enhance youth uptake over time. **Social-equity** Commuters that use public transport waiting areas that are frequented by vulnerable populations with high smoking rates, will continue to be exposed to higher levels of SHS. This compounds social disadvantage.

Option 2: Education and awareness approach

Education and raising awareness have been important features of public health and prevention initiatives. However, there are limitations to education achieving change, particularly where behaviours do not give rise to immediate detrimental effects but pose a long-term risk to health.

This option would involve community education campaigns, such as through social media, on the harms of SHS exposure, and of smoking at public transport waiting areas. It would also likely involve signage at public transport waiting areas asking people not to smoke. It does not formally instate a smoke-free policy, but rather seeks to influence community behaviour through voluntary means.

Associated costs for this option would be met by the ACT Government. It is possible that some public health groups may also like to be involved (e.g. the Cancer Council or Heart Foundation).

Option 2 – benefits and costs

Benefits	Costs
No additional legislation Government would not need to legislate for smoke-free areas at public transport waiting areas.	**Costs to Government for communications materials** The extent of these costs would depend on the nature of education/awareness raising. **Limited success** The restricted success of voluntary controls on smoking in certain areas in the past means this option is considered to have limited effectiveness. For example, the Woden bus interchange continues to have compliance issues with its voluntary smoke-free policy, despite extensive signage.

	Possible lack of compliance There could be a lack of compliance with any requests not to smoke, leading to: community confusion (about where smoking is legally banned); criticism over inaction; and an expectation that government do something about the non-compliance. **Potential for criticism of ACT Government** The ACT Government may face criticism for a soft approach to tackling the issue, particularly as all other Australian jurisdictions have legislation for smoke-free areas at some or all public transport waiting areas.

Option 3: Establish a smoke-free policy

This option would establish smoke-free public transport waiting areas under ACT Government policy and rely on voluntary compliance among the community. This would be supported by community education campaigns and the provision of signage and other supporting resources. Associated costs would most likely be met by the ACT Government. It is possible that some public health groups would be willing to partner with the ACT Government (e.g. the Cancer Council or the Heart Foundation).

The government has undertaken a similar approach in an attempt to make ACT Health owned or leased facilities, such as Canberra Hospital Campus, smoke-free. The policy has had mixed success since its inception in 2013 due to a limited ability to enforce the policy. Staff or security guards can request that a person stop smoking but they can undertake no further enforcement action.

In 2014-15, there were 4,921 verbal interactions with people for smoking at Canberra Hospital Campus[32], suggesting that the smoke-free policy and/or its implementation is not sufficient to effectively create a smoke-free area at this location. As such, ACT Health is currently exploring options to improve compliance.

[32] ACT Government Health. Annual Report 2014-15. Canberra: ACT Government Health Directorate, 2015. Available from:http://health.act.gov.au/sites/default/files//ACT%20H%20Annual%20Report%202014-15%20Internals.pdf

Option 3 – benefits and costs

Benefits	Costs
No additional legislation Government would not need to legislate for smoke-free areas at public transport waiting areas. **Reduced exposure to SHS** The policy would reduce commuter's exposure to SHS, but is likely to have limited success due to the voluntary nature of compliance. **Responsive to the community** The ACT community supports smoke-free bus waiting areas, with approximately 91 per cent of respondents to a consultation in late 2015 providing support. **Amenity for non-smokers** There may be gains in convenience or amenity for commuters and other visitors to public transport waiting areas in the ACT. Approximately 90 per cent of ACT adults are non-smokers. 47 per cent of bus-using respondents to a consultation in late 2015 stated that they would do so more often if public transport waiting areas were made smoke-free. Only a few respondents said that they would visit less often. **Denormalise smoking** The removal of smoking from public places would remove a visual cue that smoking is normal. This would help to reduce the uptake of smoking. **Support for ex-smokers and those trying to quit** Smoke-free environments support quit attempts by limiting the places where smokers can smoke and reducing the cues to smoke that may create cravings for smokers trying to quit. Smoke-free	**Implementation costs e.g. public awareness campaign** There will be costs for government to implement and enforce the policy. **Limited success** The limited success of voluntary controls on smoking in certain areas in the past means this option is considered to have limited effectiveness. For example, the Woden bus interchange continues to have compliance issues with its voluntary smoke-free policy, despite extensive signage. **Possible lack of compliance** There could be a lack of compliance with any requests not to smoke, leading to: community confusion (about where smoking is legally banned); criticism over inaction; and an expectation that government do something about the non-compliance. **Loss of amenity for smokers** In the ACT, 9.9 per cent of people 18 years and over are daily smokers. Loss of amenity for smokers needs to be offset by gains for non-smokers. Loss of amenity for smokers is an intentional part of restricting tobacco consumption (i.e. to encourage people to stop smoking). **Signs** Signs would educate the public about the smoke-free policy and encourage compliance. A quote for production of signage for bus interchanges and bus stops for approximately $15,000 has been obtained for vinyl outdoor posters and adhesive signage. Additional signage requirements for

areas can also decrease daily cigarette consumption.	other transport hubs include, taxi ranks, and light rail platforms would also be required. Installation would bring the cost to approximately $60,000-$70,000.

Option 4: Use Ministerial declaration power to legislate a smoke-free area

Part 2 of the Act provides for the establishment of new smoke-free public places and events by Ministerial declaration. Section 9O of the Act allows the Chief Minister and responsible Minister to jointly declare that a public place or event is a smoke-free public place or event.

This option would use this declaration power to establish a minimum five metre smoke-free perimeter around public transport waiting areas in the ACT. The Declaration of ACT public transport waiting areas would be a disallowable instrument made pursuant to section 9O of the Act.

To ensure a balanced approach to implementing new smoke-free public places and events, Ministers are required to undertake community consultation prior to making each declaration. Ministers must also have due regard to factors such as: the frequency with which the place or event is visited by children or families, the impact on community health, costs and benefits of making an area smoke-free, and measures to promote compliance.

A study published in the journal for *Nicotine and Tobacco Research (2014)* recommended a nine metre buffer to prevent SHS exposure, however this may not be practical for commuters waiting for transport. A five metre smoke-free buffer around public transport stops has been proposed since a distance greater than five metres may result in smoking commuters missing their transport or drivers not recognising a waiting passenger. A five metre smoke-free area around transport stops is also consistent with the perimeter used in Queensland.

At distances greater than two metres near single ignited cigarettes, levels of SHS approached background. However, if downwind it is possible for SHS to be detected four metres from a single ignited cigarette at very low levels. A distance of five metres is therefore recommended for smoke-free public transport waiting areas to significantly reduce exposure to SHS.

This option would enable authorised inspectors to issue infringement notices for non-compliance with the smoking restriction. Penalties for non-compliance are outlined in the Act and would be explained to the public through an awareness campaign.

Penalties would not apply to a person in a motor vehicle, unless the motor vehicle is stationary. They would also not apply to an area that is separated from the public transport waiting area by a road or smoking at residential premises within the 5 metre zone.

It is envisaged that due to ACT Government resource constraints, community education would be the primary compliance mechanism, with infringement notices used to support compliance. Clear signage would be placed at public transport waiting areas to support community education where possible. This could include information on the penalties that apply.

The Act contains consultation and assessment measures to ensure a balanced approach to establishing new smoke-free areas using the Ministerial declaration power. Before making a declaration, the responsible Minister must consult with the community, including people or organisations that would be directly affected if the declaration is made. The Chief Minister and Minister must also consider:

- the frequency with which the place or event is visited by children or families;
- the number of people likely to be present at the place or event;
- whether the declaration will create a more supportive environment for people who have, or are trying to, quit smoking;
- whether the declaration will reduce people's exposure to environmental smoke;
- the outcomes of community consultation;
- any identified costs and benefits of establishing the area as smoke-free, including economic and business impacts; and
- measures to promote compliance.

Information on consultation with the community is outlined under '5. Consultation'. The above factors would be assessed in detail and outlined in the ministerial brief accompanying the declaration.

Option 4 – benefits and costs

Benefits	**Costs**
Easy to understand and communicate A declaration, accompanied by communication activities, would make it clear that public transport waiting areas in the ACT are smoke-free, minimising the potential for community confusion. **Reduced exposure to SHS** Legislated smoke-free public transport waiting areas would facilitate better compliance with smoking restrictions,	**Implementation costs e.g. public awareness campaign and legislation** There will be costs for government to draft and implement the policy. **Signs** Signage would inform the public about the smoke-free declaration, and reference the legislation and that penalties apply. A quote for production of signage for bus interchanges and bus stops for approximately $15,000 has

effectively reducing exposure to SHS. **Responsive to the community** The ACT community supports smoke-free bus waiting areas, with approximately 91 per cent of respondents to a consultation in late 2015 providing support. Most respondents (83 per cent) believed that penalties should apply for smoking in a smoke-free area. Community consultation detailing the proposed policy for implementation of smoke-free public transport waiting areas was conducted from 24 February to 7 April 2017. 581 complete submissions were received and 95 per cent of respondents supported the proposal. **Amenity for non-smokers** Gains in convenience or amenity for commuters. Approximately 90 per cent of ACT adults are non-smokers. 47 per cent of bus using respondents to a consultation in late 2015 stated that they would do so more often if bus waiting areas were made smoke-free areas. Only a few respondents said that they would visit less often. **Denormalise smoking** The removal of smoking from public places would further remove a visual cue that smoking is normal. This would help to reduce the uptake of smoking. **Support for ex-smokers and those trying to quit** Smoke-free environments support quit attempts by limiting the places where smokers can smoke and reducing the cues to smoke that may create cravings for smokers trying to quit. Smoke-free areas can also decrease daily cigarette consumption.	been obtained for vinyl outdoor posters and adhesive signage. Additional signage requirements for other transport hubs include, taxi ranks, and light rail platforms would also be required. Installation would bring the cost to approximately $60,000-$70,000. **Loss of amenity for smokers** In the ACT, 9.9 per cent of people 18 years and over are daily smokers. Loss of amenity for smokers needs to be offset by gains for non-smokers. Loss of amenity for smokers is an intentional part of restricting tobacco consumption (i.e. to encourage people to stop smoking). **Enforcement** Enforcement of new smoke-free public places utilises the existing regulatory framework for the Act and hence cost to government is expected to be minimal. There may be small costs associated with enforcing an additional public place.

Consistency with surrounding jurisdiction New South Wales introduced smoke-free public transport stops and stations in January 2013. Legislated smoke-free public transport waiting areas in the ACT would provide greater consistency with the neighbouring jurisdiction.	

5. Consultation

Community consultation: Outdoor Smoke-Free Areas

Community consultation on options for new outdoor smoke-free areas was conducted in late 2015. This sought community feedback on the need for new smoke-free areas at bus waiting areas, among other locations. It also sought feedback on potential costs and benefits of making bus waiting areas smoke-free and sought advice on implementation.

103 complete submissions were received to the consultation: 93 from individuals; six from public health organisations; two from the sport/leisure industry; one from the tobacco industry; and one from a community group.

As indicated previously, most respondents (91 per cent) would support smoke-free bus waiting areas. Nine per cent would not support smoke-free bus waiting areas.

The majority of respondents (94 per cent) indicated that they were exposed to SHS at bus waiting areas some or most of the time (48 and 46 per cent respectively). Most respondents (92 per cent) were concerned about exposure to SHS at public transport waiting areas, with 75 per cent being very concerned and 16 per cent somewhat concerned. Nine per cent of respondents were not at all concerned.

Some respondents commented on the necessity of bus transport and the unavoidable nature of exposure to SHS. Several respondents commented that exposure to SHS is an occupational health and safety issue for transport employees.

Nearly half of respondents (47 per cent) that use buses believe they would do so more often if bus waiting areas were made smoke-free. 37 per cent of respondents would use buses the same amount, and only a few believed they would visit less often if bus waiting areas were made smoke-free.

Most respondents viewed penalties or fines as effective and necessary compliance measures for smoke-free areas at outdoor public places. 83 per cent of respondents thought that penalties or fines should apply for new smoke-free areas; 10 per cent thought they should not apply; and seven per cent were unsure. Many respondents also viewed signage, community education and designated smoking areas as useful to encourage compliance with smoking restrictions.

Community consultation: Smoke-Free Public Transport Waiting Areas

Community consultation detailing the proposed policy for implementation of smoke-free public transport waiting areas was conducted from 24 February to 7 April 2017. The scope of this consultation was expanded to comprise all public transport waiting areas, including bus waiting areas, taxi ranks, light rail stations, train stations and public transport vehicles. A six week consultation allowed for detailed feedback on potential issues and assessment of community support for the proposed declaration. 581 complete submissions were received to the consultation with 577 from individuals and 4 from organisations.

Respondents to the consultation were overwhelmingly supportive, with 93 per cent of submissions supporting the proposed policy option for smoke-free public transport hubs. 5 per cent did not support the proposal and 1.7 per cent was unsure.

Of the 581 complete submissions, 277 included a written component. Qualitative analysis of the written submissions identified a number of themes in addition to those identified in the standard survey.

The major themes in the 277 written submissions received included: 31.4 per cent expressing concerns and annoyance with exposure to second hand smoke (SHS); 19.9 per cent expressed concerns regarding the adequate enforcement of existing smoke-free areas; 18.4 percent recommended extending the minimum prohibition distance in to greater than the five metres in the policy proposal ; 15.2 per cent expressed concerned about exposure of children and youth to SHS; 11.9 per cent wanted a ban on smoking for all public places; and 10.5 per cent wanted more smoke-free public places declared.

Remaining themes in written submissions included concerns about persons with existing lung disease and asthma, 10.1 per cent; a ban at public transport hubs is overdue, 8.3 per cent; a ban would promote / encourage use of public transport, 5.8 percent; and a ban would impinge on smokers' rights, 5.4 per cent.

6. Conclusion and recommended option

Option 4 - using Ministerial declaration power to legislate public transport waiting areas as smoke-free - is the preferred option as it maximises net benefits for the ACT community. Notably, it will effectively reduce commuter's exposure to SHS at public transport waiting areas by enabling infringement notices to be issued in the event of non-compliance with smoking restrictions. Option 4 would be supported by community education to ensure that the public is aware of the new restrictions and the penalties that may apply. It is envisaged that community education would be the primary compliance mechanism, with infringement notices used to support compliance.

Option 1 – maintain the status quo – is unlikely to impact commuter's exposure to SHS in the short or medium term. Option 2 – education and awareness – and Option 3 – establish a smoke-free policy - essentially rely on voluntary behaviour change or voluntary compliance with a smoke-free policy. As such, their effectiveness in reducing commuter's exposure to SHS is limited.

Alignment with objectives of government intervention

Option 4 best achieves the objectives of government intervention. It will enable the ACT Government to better reduce public exposure to SHS and to denormalise the act of smoking.

In providing a strong enforcement mechanism, it is likely to improve community compliance with smoking restrictions at public transport waiting areas. This will help to create a more supportive environment for people who have, or are trying to, quit smoking.

Option 4 supports the objective of the Act to promote public health by minimising the exposure of people to environmental smoke. It restricts places of tobacco use and will hence reduce exposure to SHS.

7. Implementation

A detailed implementation plan will be developed prior to the introduction of the Ministerial declaration and the establishment of smoke-free ACT public transport waiting areas.

ACT Health is responsible for preparing the legislative instrument and for any regulatory changes made in the future. ACT Health is also responsible for signage and community education costs, within the constraints of its existing resources.

Transport Canberra and City Services (TCCS) and Access Canberra will have ongoing responsibility for the implementation of smoke-free public transport waiting areas, including enforcement and regular evaluation. City rangers and transport officers will be appointed as authorised inspectors under the Act for public transport waiting areas. City rangers, transport officers, Access Canberra inspectors and AFP-ACT Policing sworn officers will be authorised to issue infringement notices for non-compliance with smoking restrictions. TCCS and ACT Health will develop guidance documents for the authorised inspectors.

ACT Health will brief AFP-ACT Policing and Access Canberra regarding the new legislation. The new legislation may create a small amount of additional work for police officers and Access Canberra, as both of these bodies could have an enforcement role. Police officers are authorised to issue infringement notices, and Access Canberra is responsible for enforcement of the Act and responding to public complaints regarding smoking in a legislated smoke-free area.