

## Code of Practice: Train Visibility at Level Crossings – Consultation Feedback Summary

### 1 Overview of consultation

In February 2024, the Office of the National Rail Safety Regulator (ONRSR) engaged a small group of stakeholders to seek preliminary feedback on a draft Code of Practice – Train Visibility at Level Crossings (code) before releasing it for broader consultation. ONRSR invited the following organisations to take part in this targeted consultation:

- Aurizon
- Pacific National
- Southern Shorthaul Railroad
- Rail Industry Safety and Standards Board (RISSB)
- CBH Group
- Dr Brett Hughes, as a representative of several families impacted by level crossing collisions.

ONRSR received 5 written submissions from this preliminary engagement which resulted in minor changes to the draft code.

In March and April 2024, ONRSR conducted broader public consultation on the code, including 10 online information sessions and 5 individual meetings. About 100 people participated in the consultation, representing 13 stakeholder groups. The breakdown of participants in the online sessions and individual meetings is provided in Figure 1.

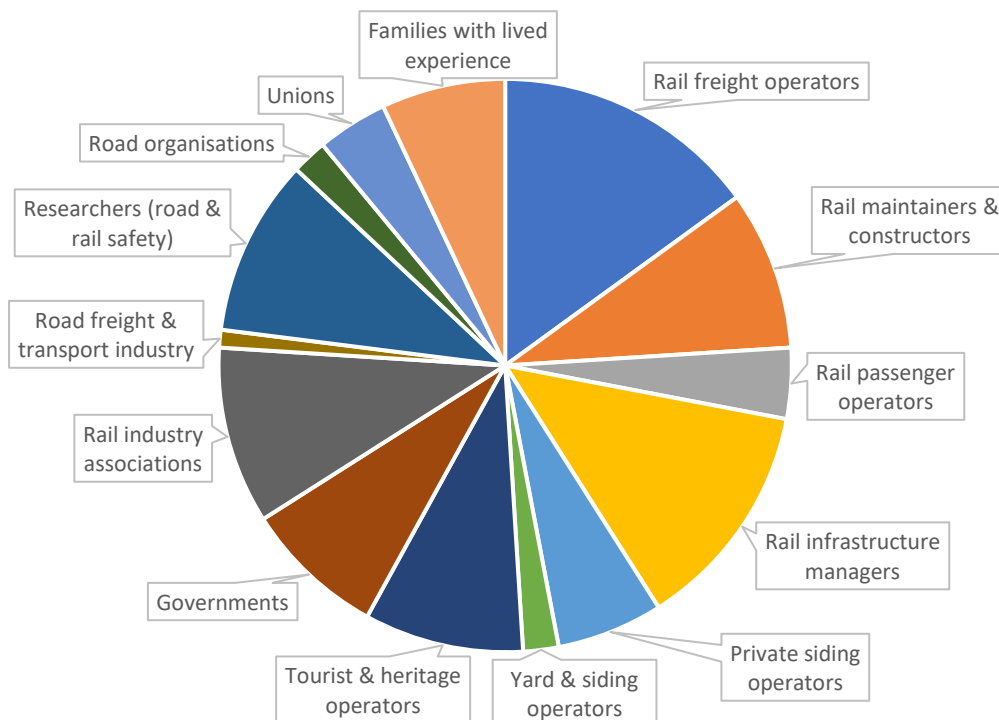


Figure 1: Participant representation by sector at online sessions and individual meetings

ONRSR received a further 23 written submissions from a variety of stakeholders as well as members of the public. A list of submissions is included at **Appendix A**.

On 7 May 2024, ONRSR attended a briefing on safety initiatives hosted by the Association of Tourist and Heritage Rail Australia (ATHRA) which included a discussion on the code.

## **2 Feedback summary**

The following summary of consultation feedback is grouped into three categories: feedback resulting in changes to the code; feedback not resulting in changes to the code; and feedback outside the scope of the code or outside ONRSR's regulatory remit.

### **2.1 Feedback resulting in changes to the code**

#### **2.1.1 Clarification and consistency**

ONRSR changed the code to ensure consistency of terminology, in particular references to road users, trains and level crossings. Several terms were added to the definitions section.

It was suggested that use of the term "systems approach" was confusing, due to its frequent use in the road safety context. Adjectives such as "multifaceted" or "collaborative" are now used in its place, where appropriate.

ONRSR also amended the code to ensure its requirements were more appropriately linked to the relevant provisions of the Rail Safety National Law (RSNL).

#### **2.1.2 Focus of the code**

There was confusion about the focus of the code. Changes to the foreword make it clear that the code is not focused solely on improving train illumination but more broadly on a range of controls that can be used to improve train visibility at level crossings.

The title of the code was also updated from *Level Crossings and Train Visibility* to *Train Visibility at Level Crossings* to better reflect its focus.

#### **2.1.3 Road user behaviour**

The section on road user behaviour was confusing for a broad range of stakeholders. Some stakeholders felt this section blamed road users while others were concerned that it appeared to be attempting to transfer risk responsibilities.

This section intends to help rail transport operators understand risks at level crossings, including the expectations and responsibilities of road users. It was not intended to apportion blame or transfer risk responsibilities. To address these concerns, the section on road user behaviour was deleted and information relating to road users and human factors considerations has been included in the hazard/risk section.

#### **2.1.4 Status of the code**

To clarify the status of the code, ONRSR included an explanation of what is meant by non-mandatory and the expectations on rail transport operators to comply.

#### **2.1.5 Application of the code to tourist and heritage operators**

The Australian Standard *AS 7531- Rolling stock lighting and visibility* applies only to new and modified rolling stock. Several stakeholders questioned whether this therefore meant the code did not apply to existing rolling stock, in particular for tourist and heritage operators.

In response, ONRSR has clarified that to comply with the code, existing, new, and modified rolling stock must be, at a minimum, assessed against AS 7531. This includes tourist and heritage rolling stock operating through level crossings.

#### **2.1.6 Interoperability/harmonisation for rolling stock operators**

Rolling stock operators who operate across multiple networks were concerned by the potential for different rail infrastructure managers to have conflicting requirements for rolling stock operating on their networks. These operators suggested this could mean significant modifications to meet the requirements of each rail infrastructure manager and in some cases, not being able to meet the requirements.

To address these concerns, the code was changed to clarify that any requirements from rail infrastructure managers relating to the lighting, livery and reflectivity of a train should be evidence-based. Where approaches to managing risks for one railway network has potential impacts on other railway networks, rail infrastructure managers should seek to achieve the best practicable safety outcome.

### **2.2 Other feedback not resulting in changes to the code**

#### **2.2.1 Broader level crossing safety**

Rail sector representatives raised strong concerns that the code put all responsibility and a disproportionate burden for level crossing safety on the rail industry. These representatives suggested that the code failed to address road safety.

Rail transport operators, road and rail infrastructure managers, members of the public, governments, emergency services and regulators all have a vital role to play in level crossing safety.

The code is designed to assist rail transport operators strengthen the overall safety management systems that underpin operations where trains interact with people, drivers and vehicles. It is one of a range of controls that can be used to improve safety at level crossings.

The code is also relevant to road managers who have responsibilities under the RSNL to manage the risks to safety at interfaces between road and rail. It will assist them when

undertaking risk assessments of level crossings in conjunction with rail transport operators as part of interface agreements.

### **2.2.2 Regulatory impact analysis**

One submission noted it was not clear that economic costs had been considered and recommended that a regulatory impact analysis of the code be undertaken.

The financial impact of compliance with the code has not been investigated given the code is not mandatory. Any cost impact will depend on the extent to which operators determine they need to adopt additional measures to improve the visibility of trains to road users.

### **2.2.3 Five-year implementation**

A small number of rail industry stakeholders expressed concern about the five-year time limit to upgrade rolling stock to demonstrate compliance with the code. It was suggested that meeting this timeframe would be difficult due to funding and operational constraints. No further information or alternative timeframes were offered.

ONRSR considered what would be a reasonable timeframe for compliance. Anything shorter than 5 years is not considered to be reasonable and anything beyond five years presents a risk of delaying safety improvements. Without alternative timeframes or evidence, the five-year timeframe has been retained.

### **2.2.4 Lack of consultation**

There was concern that consultation had not been inclusive enough, particularly to industries beyond the rail industry who are affected by level crossing safety. As shown by Figure 1, a broad representation of stakeholders from outside the rail industry attended the consultation sessions.

ONRSR invited families with lived experience, researchers, the freight industry, first responders and road organisations to attend consultation sessions or provide written feedback. Members of the public were also able to attend consultation sessions or provide feedback.

## **2.3 Feedback outside the scope of the code or ONRSR's remit**

### **2.3.1 Behaviour of road users**

Enforcing road rules, such as road users who do not obey the traffic controls at level crossings, is outside the remit of ONRSR.

### **2.3.2 Enforcement of risk mitigation controls allocated to road managers**

Rail industry stakeholders voiced issues regarding the reluctance of responsible road managers to implement improvements to level crossings which have been outlined in interface agreements.

The code will assist road managers when undertaking risk assessments of level crossings in conjunction with rail transport operators as part of interface agreements. ONRSR notes that the management of interfaces was considered by the National Transport Commission (NTC) as part of its recent Review of the Rail Safety National Law and recommendations have been made to strengthen this area.

### **2.3.3 Mandatory flashing beacons and side lighting**

A code of practice is not able to mandate flashing beacon lights and lighting along the side of wagons. However, to comply with the code rolling stock operators must assess and document evidence for whether additional lighting, beyond what is recommended in AS 7531, on their lead locomotives or along the train consist is required to ensure, so far as is reasonably practicable, that road users will be made aware of and/or are able to see approaching trains at the level crossings which form part of their rail operations.

Additionally, rolling stock operators must document reasons for deviating from the standard or, for or against additional lighting as part of the risk assessment process along with the supporting evidence to justify the decision.

### **2.3.4 Criticism of the Australian Standard**

Australian Standard AS7531 – *Rolling stock lighting and visibility* and the process for its development was criticised by some stakeholders.

### **2.3.5 Confusion over how the RSNL operates and the co-regulatory framework**

Some stakeholders suggested that “so far as is reasonably practicable” (SFAIRP) provides the rail industry the opportunity to do as little as possible to achieve compliance with the code. The SFAIRP legal test or equivalent is commonly used in safety legislation in Australia, for example in the National Heavy Vehicle Law and Work Health and Safety Law.

## **Appendix A**

### **Submissions**

*Does not include confidential submissions*

Australian Centre for Road Safety  
ARC Infrastructure  
ARTC  
ATSB  
Aurizon  
Australian Trucking Association  
Cooma Monaro Railway Inc  
Department for Infrastructure and Transport SA  
Engineers Australia  
Gemma Read  
Lara Jensen  
Merrilea Broad  
Metro Trains Melbourne  
Monash University Accident Research Centre  
National Farmers Federation  
National Heavy Vehicle Regulator  
P7 Safety - Dr Brett Hughes  
Queensland Rail  
RAA  
Robert Morgan (Engineer)  
Department of Transport and Planning Victoria  
VLine  
WA Local Government Association