



INDEPENDENT
TRANSPORT
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REGULATOR

safe and reliable transport services for new south wales



IMPLEMENTATION OF THE NSW GOVERNMENT'S RESPONSE to the Final Report of the Special Commission of Inquiry into the Waterfall Accident

Reporting Period: July - September 2009



ITSRR Quarterly Report Nineteen

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NSW GOVERNMENT'S RESPONSE**
to the Final Report of the Special Commission
of Inquiry into the Waterfall Accident

Reporting Period:
July - September 2009

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INDEPENDENT
TRANSPORT
SAFETY AND
RELIABILITY
REGULATOR

30 October 2009

The Hon David Campbell MP
Minister for Transport
Level 35, Governor Macquarie Tower
1 Farrer Place
Sydney NSW 2000

Dear Minister

I am pleased to provide the nineteenth Quarterly Report on the implementation of the Government's response to the recommendations contained within the Final Report of the Special Commission of Inquiry (SCOI) into the Waterfall Accident.

This Report reflects implementation progress from 1 July to 30 September 2009. At the close of this period, there are four outstanding recommendations whose implementation and closure will occur over the longer term. As a result, there will be little new information to report from quarter to quarter.

ITSRR will therefore move to producing quarterly statements instead of full reports with tables and detailed methodology. The first statement, covering the period October to December 2009, will be provided to you for tabling in Parliament and published on ITSRR's website in early February 2010.

Past quarterly reports will continue to be available on ITSRR's website at www.transportregulator.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Len Neist'.

Len Neist
Chief Executive

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ABBREVIATIONS

ALARP	As Low As Reasonably Practicable
ARA	Australasian Railway Association
ATP	Automatic Train Protection
ARTC	Australian Rail Track Corporation
CMC	Code Management Company
CRM	Crew Resource Management
D&A	Drug and Alcohol
ESA	Emergency Service Agencies
ITSRR	Independent Transport Safety and Reliability Regulator
MoU	Memorandum of Understanding
NROD	National Rail Occurrence Database
NRSAP	National Rail Safety Accreditation Package (also known as NAP or National Accreditation Package)
NTC	National Transport Commission
OH&S	Occupational Health and Safety
OTSI	Office of Transport Safety Investigations
PN	Pacific National Pty Ltd
RIC	Rail Infrastructure Corporation
RC	RailCorp
RMC	Rail Management Centre
RLAP	Rail Legislation Advisory Panel
RSRP	Rail Safety Regulators Panel
RSW	Rail Safety Workers
SCOI	Special Commission of Inquiry
SMS	Safety Management Systems
SMSEP	Safety Management Systems Expert Panel
TACE	Transport Agencies Chief Executives

EXECUTIVE SUMMARY

The Special Commission of Inquiry (SCOI) into the Waterfall Rail Accident released its Final Report on 17 January 2005. In accordance with the Commission's recommendations, the NSW Government agreed that the Independent Transport Safety and Reliability Regulator (ITSRR) should report quarterly on implementation progress. This is the nineteenth Quarterly Report. It outlines progress made between 1 July and 30 September 2009.

Implementation Summary

During the reporting period one recommendation was verified and closed by ITSRR:

- Recommendation 43 requires standardised communications terminology, protocols and procedures mandated through regulations. The Rail Industry Safety and Standards Board (RISSB) is continuing to develop a National Rule Book which will include mandatory communications protocols.

However, standardised communications terminology, protocols and procedures are already in place in New South Wales through the Network Rules (RailCorp and ARTC Network Rules). A Regulation has been mandated (Part 5 of the *Rail Safety (General) Regulation 2008*) that requires rail infrastructure owners in NSW to consult prior to any amendment to the Network Rules. This ensures any changes to the Network Rules – including communications terminology, protocols and procedures – apply consistently throughout NSW.

To ensure compliance with these rules, ITSRR targets this issue in its audit and inspection program.

On this basis Recommendation 43 has been closed as an “acceptable alternative response.”

Further progress was made with implementing three other recommendations:

- ITSRR submitted a paper to the Rail Safety Regulation and Policy Group (RSPRG), the national body responsible for rail safety policy issues, indicating that NSW would proceed to implement the use of data loggers by way of regulation in NSW (Recommendations 36 and 37). In response, the RSPRG expressed support for these recommendations being addressed nationally by the National Transport Commission (NTC), rather than unilaterally by NSW.

ITSRR has since met with the NTC to discuss the RSPRG's view. As a result the NTC has revised its earlier decision and agreed to incorporate the development of national regulations for data loggers into its maintenance and reform program. The new interim target date for these recommendations is now 28 February 2010 (Recommendations 36 and 37).

- RailCorp advised an evaluation of tenders for the procurement of its digital train radio system (GSM-R) identified the need to reassess the operational and technical risks associated with the development and roll-out of the new system. As a result, RailCorp reissued the Request for Tender with appropriate amendments in July 2009 and is in the final stages of the evaluation.

RailCorp expects to award a contract by the end of December 2009 with the full implementation of the new digital train radio system by 31 December 2012 (Recommendation 38).

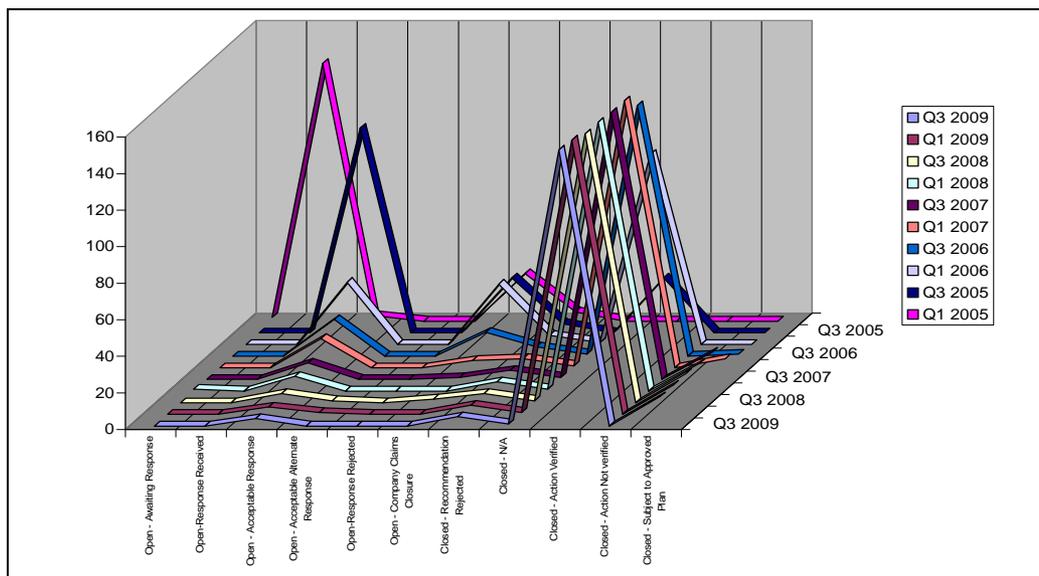
At the end of the reporting period, the cumulative implementation progress to date for all 177 recommendations (including 127 recommendations and 50 sub-elements) was as follows:

- 173 (98%) recommendations verified and closed

- 1 recommendation open acceptable response has an interim target date (Recommendation 32)
- 2 recommendations referred to the NTC have new interim target dates (Recommendations 36 & 37)
- 1 recommendation open acceptable response (Recommendation 38).

The current status of all of the safety actions, compared to that in previous quarters, is summarised below:

GRAPH 1: PROGRESSIVE STATUS OF ALL RECOMMENDATIONS BY QUARTER



As time has progressed the peak has shifted along the x-axis as the recommendations are closed.

Slippage

There were no slippages during the reporting period.

METHODOLOGY

This section briefly outlines the processes ITSRR has instituted to develop and monitor the Implementation Plan for the Government's response to the SCOI Final Report into the Waterfall Rail Accident. Full details of these methods can be found in Appendix 2.

Implementation Plan

ITSRR reviewed the SCOI Final Report and determined the actions required to implement each recommendation (in line with the Government's response) and which company or agency has responsibility for that action. These expectations formed the basis for determining whether the response put forward by a company or agency is appropriate to meet the recommendation and/or satisfy the safety objective of the recommendation.

Responsible agencies assigned indicative timeframes for each safety action and ITSRR reviewed the appropriateness of them to ensure the timeframes were feasible and that processes were in place to adequately monitor progress as well as to give sufficient notice and justification to ITSRR for any changes to the implementation plan. Timeframes agreed with responsible companies or agencies have, to the greatest extent possible, been made realistic and achievable. Details of the Implementation Plan for outstanding recommendations and progress against the plan may be found in Appendix 3.

Classification System for Recommendations

In order to provide a graduated view of progress against the Implementation Plan, ITSRR developed a classification system to indicate the relative status of each recommendation. The taxonomy for the Classification System has been drawn from accepted international practice. Appendix 1 includes tables and graphs of the current implementation status of recommendations.

Slippage

In reporting slippage against the agreed timeframes in the Implementation Plan, ITSRR uses the following guide:

- If a claim for closure was expected by the conclusion of the reporting quarter but was not received then it is recorded as slippage;
- If a claim for closure is submitted to ITSRR by the end of the reporting quarter but the target date was earlier in the quarter, it will not be recorded as slippage; and
- If a revised target date for implementation was received from an agency but action will be completed within the original reporting quarter then it is not recorded as slippage. However in the event that the revised target date is not met, ITSRR will record the event as a slippage.

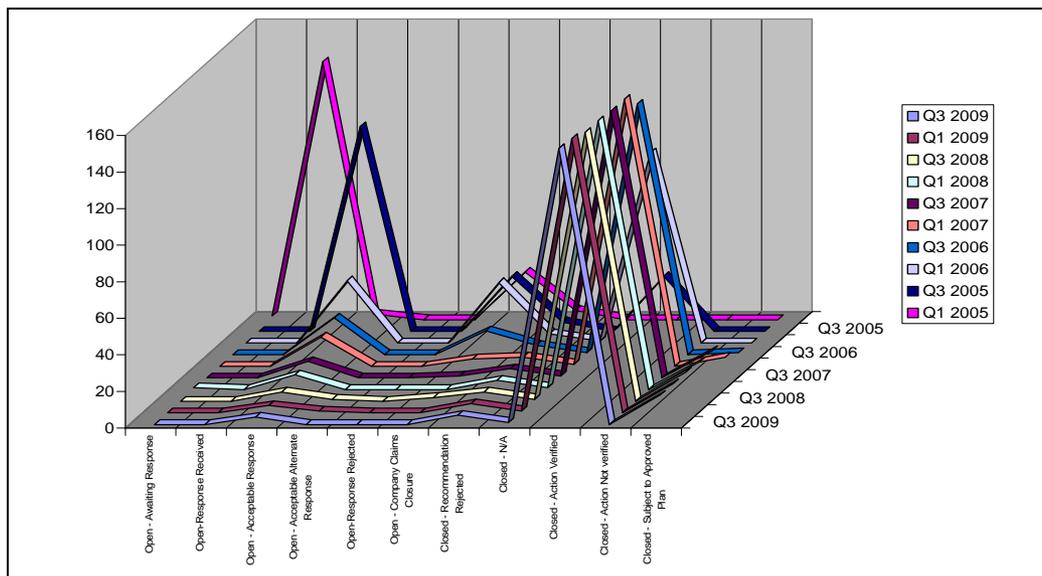
SUMMARY OF PROGRESS

The SCOI was given the task of identifying the causes of the Waterfall accident and ways of preventing such accidents in the future. The Commission was also asked to examine what might lead to overall improvements in the safety management of rail operations in NSW. The SCOI Final Report grouped recommendations under 19 safety themes. These relate to both the causes of the accident and to suggested improvements in the overall management of safety on the NSW rail network.

In this Report, implementation progress is summarised against these 19 safety themes. It outlines progress in the reporting quarter, any slippage against agreed timeframes and any action taken by the responsible agency and/or ITSRR to address slippage. Recommendations closed out in earlier quarters are not covered in detail in this report. Previous quarterly reports are available on ITSRR's website www.transportregulator.nsw.gov.au This approach provides the necessary transparency to ensure appropriate public scrutiny of progress made in implementing the Government's response to the SCOI Final Report.

The graph below illustrates the status of recommendations as at 30 September 2009.

GRAPH 1: PROGRESSIVE STATUS OF ALL RECOMMENDATIONS BY QUARTER



Emergency Response

SCOI Final Report Recommendations 1 - 28

These recommendations relate to the Commission's findings that emergency response procedures to the Waterfall Rail Accident were inadequate. They are intended to ensure that (in the event of a future rail accident) RailCorp has effective procedures in place that will enable it to locate the accident site, secure and isolate it, ensure safety at the site and facilitate access of emergency services.

The recommendations also aim to ensure that any such emergency response is coordinated between relevant parties and is timely. They require the provision of supporting emergency procedures and appropriate training in those procedures. Recommendations 1-28 are closed.

Design and Procurement of Rolling stock

SCOI Final Report Recommendations 29 - 30

The Commission recommended that all railway operators should have a quality assurance program in place for the design and construction of rolling stock (Recommendation 29) and that the rail safety regulator should set standards for the design, manufacture, testing and commissioning of rolling stock to ensure that it is fit for purpose (Recommendation 30). Recommendations 29-30 are closed.

Driver Safety Systems

SCOI Final Report Recommendations 31 - 33

These recommendations are intended to minimise the risk of an accident in the event of train driver incapacitation by requiring the fitting of two independent engineering defences to all trains. In the longer term the SCOI recommended the introduction of Automatic Train Protection (ATP). The Government supports this in principle; however, its application on an industry-wide basis needs to be determined. ATP systems are more advanced technologies which can automatically override a driver if a train is behaving in an unauthorised way in relation to network constraints. Recommendations 31 and 33 are closed.

Recommendation 32 requires a detailed analysis of options for improved ATP systems for the NSW network to determine if the recommendation is feasible and how it could be implemented.

ITSRR previously reported that RailCorp had prepared and submitted a preliminary business case to Government outlining an implementation strategy and funding required to introduce ATP on the NSW network. At the same time, RailCorp's Board approved funding to progress the design and planning phase of an ATP program in parallel with consideration of the preliminary business case in the event that the Government decided to proceed with the introduction of ATP.

RailCorp advised ITSRR that Cabinet had given in-principle funding approval for the introduction of the ATP program. Preparation of a full business case for the first stage of the rollout of the program for the outer metropolitan network is underway.

The next key milestone for this project is the NSW Treasury Gateway Review of this business case which is to be completed by 31 July 2010. Accordingly, the interim target date for this recommendation is 31 July 2010.

The NSW Treasury Gateway Review is a systematic process to review major projects at key decision points in the procurement process by independent assessors. The progress of a project is assessed against established criteria including: service delivery, affordability, value for money, sustainability, governance, risk management, stakeholder management and change management (Recommendation 32).

Risk Assessment and Risk Control Procedures

SCOI Final Report Recommendation 34

Recommendation 34 and its sub-elements seek to make the rail network safer by ensuring that RailCorp has in place processes to systematically identify and assess risks on the network and put appropriate control measures in place to

reduce or eliminate circumstances which might result in an accident. This recommendation and its sub-elements are closed.

Data Loggers

SCOI Final Report Recommendations 36 - 37

Data loggers record information on a train's operations; including, for example, speed during a journey. During any accident or incident investigation effective use of data loggers can provide investigators with information to help them understand the causes of accidents or incidents on the rail network. Data loggers can also assist rail operators to monitor safety performance.

These recommendations were referred to the National Transport Commission (NTC) and it was reported that the NTC agreed to incorporate development of these regulations into its 2008-09 work program. Furthermore, the NTC determined that as the majority of commercial rolling stock is already fitted with data loggers, national regulations should only be used to specify the type of data to be collected and made available for use.

Subsequently the NTC notified ITSRR that it no longer intended to include development of national regulations for data loggers into its work program. However, the NTC suggested that the making of regulations could be incorporated into legislation to be administered by the proposed national rail safety regulator.

Given implementation of the national rail safety regulator proposal is not expected until mid 2012, in September ITSRR submitted a paper to the Rail Safety Regulation and Policy Group (RSPRG) – the national body responsible for rail safety policy issues – indicating that it would proceed to implement the recommendations by way of regulation in NSW. In response, the RSPRG expressed support for these recommendations being addressed nationally by the NTC, rather than unilaterally by NSW.

ITSRR has since met with the NTC to discuss the RSPRG's view. As a result, the NTC has revised its earlier decision and agreed to incorporate the

development of national regulations for data loggers into its maintenance and reform program.

The new interim target date for these recommendations is 28 February 2010 (Recommendations 36 and 37).

Communications

SCOI Final Report Recommendations 38 - 46

These recommendations address two important issues. First, that standardised communications protocols should be in use on the NSW rail network so that rail employees use clear and well understood language when communicating with each other. This is particularly important in emergency situations.

Second, the compatibility and inter-operability of communications equipment (radios for example), so that in an emergency drivers, signallers, train controllers and other relevant personnel (with different types of communications equipment) are able to talk to each other.

Recommendations 39 to 46 are closed and the introduction of national communications technical standards will be implemented by the end of 2012 (Recommendation 38).

Recommendation 38 requires that: “there must be compatibility of communications systems throughout the rail network. It is essential that all train drivers, train controllers, signallers, train guards and supervisors of trackside work gangs in NSW be able to communicate using the same technology”.

The National Standing Committee of Transport endorsed the Australasian Railway Association (ARA) working with operators and regulators – including RailCorp, ARTC and ITSRR – to develop a national approach on communications systems. Through this working group ITSRR, in consultation with the ARA, will ensure functionality and compatibility requirements are included in the national standard.

The second part of this recommendation is for ITSRR to ensure that RailCorp and ARTC have radio functionality and compatibility for next generation technology requirements in line with national agreements from the working group.

RailCorp advised that the evaluation of tenders submitted in late March 2009 for the procurement of its digital train radio system (GSM-R) identified the need to reassess the operational and technical risks associated with the development and roll-out of the new system. As a result, RailCorp reissued the Request for Tender with appropriate amendments in July 2009 and is in the final stages of the evaluation.

RailCorp expects to award a contract by the end of December 2009 with the full implementation of the new digital train radio system by 31 December 2012.

It should be noted that trains can already communicate with other trains operating on the rail network through network control in an emergency situation. The existing communications system enables network control to send an emergency broadcast call to all passenger and freight trains in the immediate vicinity of the emergency. Train drivers cannot communicate directly to other train drivers without the call going through network control which is in line with national rail safety principles.

Recommendation 43 concerns the mandating of communication terminology, protocols and procedures through regulations. The outcome of an impact assessment conducted by the NTC concluded it was not appropriate to mandate these protocols and procedures through the use of national regulations.

Consequently, the matters were referred to the Australasian Railway Association (ARA) for inclusion in the development of national standards by its subsidiary the Rail Industry Safety and Standards Board (RISSB). The ARA confirmed arrangements with the rail industry to develop and implement the

Australian Network Rules and Procedures (ANRP). The ARA also indicated it had gained the agreement of all major access providers (network infrastructure managers) to implement the new rules and procedures through their rail access agreements with operators thereby making them mandatory.

While RISSB is continuing to develop a National Rule Book, standardised communications terminology, protocols and procedures are already in place in New South Wales through the Network Rules (RailCorp and ARTC Network Rules). A Regulation has been mandated (Part 5 of the *Rail Safety (General) Regulation 2008*) requiring rail infrastructure owners in NSW to consult prior to any amendment to the Network Rules. This ensures that any changes to the Network Rules – including communications terminology, protocols and procedures – apply consistently throughout the State.

To ensure compliance with these rules ITSRR targets this issue in its audit and inspection program.

On this basis Recommendation 43 has been closed as an “acceptable alternative response” (Recommendation 43).

Train Maintenance

SCOI Final Report Recommendations 47 - 53

The purpose of these recommendations is to ensure there are minimum standards and inspections in place for RailCorp trains entering service and adequate maintenance plans and systems in place to record and rectify train defects, as well as certification of work by an appropriately qualified individual. Recommendations 47-53 are closed.

Alcohol and Drug Testing

SCOI Final Report Recommendations 54 - 56

These recommendations are intended to ensure random drug and alcohol (D&A) testing continue and that testing is made mandatory following an incident. The *Rail Safety Act 2002* and supporting D&A testing regulations and guidelines require accredited operators to have a D&A program in place. They

also enable operators to conduct post-incident D&A testing, but do not explicitly require such testing. These recommendations are closed.

Periodic Medical Examinations

SCOI Final Report Recommendations 57(a)-(j)

This recommendation is directed at minimising the risk of incapacitation of train drivers through more stringent standards for periodic medical examinations for rail safety workers. The recommendations have been implemented, verified and closed through the adoption of the National Standard for Health Assessment of Rail Safety Workers. This recommendation and its sub-elements are closed.

It was previously reported that recommendation 57 (d) (that ITSRR develop standards for periodic medical examinations which include the requirement that all such medical examinations must be reviewed on behalf of the employer by an occupational physician) was closed on advice from the NTC that this recommendation would be addressed as part of its maintenance program established for the National Health Assessment Standard.

The NTC did not accept adoption of this recommendation as stated by the SCOI, but proposed that quality control guidance material be developed as part of the maintenance program and included in future editions of the Standard, which the NTC has now commenced reviewing as part of its 2009-2010 work program.

ITSRR accepted the NTC's position and recorded it as an acceptable alternative response to the recommendation.

Consequently, the recommendation remains closed, however, in the interests of transparency, ITSRR will report on the outcome of the review with respect to 57 (d).

Safety Document Control

SCOI Final Report Recommendations 58 - 64

Effective document control, particularly document control of safety information, is a critical element of a rail operator's safety management system. Employers and employees must be confident that the safety information they are operating under is current and accurate. All of these recommendations are now closed.

Train Driver and Guard Training

SCOI Final Report Recommendations 65 - 71

It is important that train drivers and train guards are adequately trained in the performance of their duties. This issue was also raised by the SCOI into the Glenbrook accident. Of particular interest for training is the appropriate use of simulators, encouragement of teamwork, and the development of training based on a needs analysis. All of these recommendations have previously been closed.

Rail Accident Investigation

SCOI Final Report Recommendations 72 - 82

The SCOI Final Report promulgated "just culture" investigations (i.e. those aimed at determining all the factors contributing to an accident, including systemic factors rather than attempting to allocate blame or liability), as more likely to contribute to improved safety outcomes in the longer term. Recommendations 72 -74 and 82 concern the powers of, and relationship between, the NSW Office of Transport Safety Investigations (OTSI) and the Australian Transport Safety Bureau (ATSB). All of these recommendations are closed.

Safety Culture

SCOI Final Report Recommendations 83 - 84

It is accepted safety practice that a positive safety culture works in tandem with a safety management system to deliver safe operations. The safety culture

recommendations require a plan from RailCorp and a subsequent review by ITSRR. All of these recommendations are closed.

Occupational Health and Safety

SCOI Final Report Recommendations 85 - 87

Recommendations 85-87 articulated the SCOI's concern that RailCorp's approach to safety management was overly focused on occupational health and safety (OHS). By this it meant that RailCorp primarily sought to implement risk control measures for risks of relatively low consequence, but high frequency, to the detriment of more significant risks of relatively high consequence, but low frequency. The SCOI recommended integration of OHS management into RailCorp's overall safety management system, so that broader public safety concerns, such as derailments or collisions, would receive greater attention. All of these recommendations are closed.

Passenger Safety

SCOI Final Report Recommendations 88 - 101

These recommendations address emergency egress and access (i.e. ways in which passengers can escape from trains in an emergency and the way emergency services and other rescuers can get into trains), emergency evacuation procedures and associated training and standards, as well as the adequacy of penalties for misuse of emergency and other safety related equipment. All of these recommendations have previously been closed.

Corporate Governance

SCOI Final Report Recommendations 102 - 109

These recommendations introduce requirements for formal qualifications in system safety management for managers who report to the CEO of RailCorp. They also require development of safety accountability statements and reporting lines for all management positions and the introduction of independent external and internal audit processes to be managed by the RailCorp Board. All of these recommendations have been closed in previous quarters.

Safety Reform

SCOI Final Report Recommendation 110(a)-(e)

This recommendation sought to create a position of Safety Reform Program Director to manage the safety reform program being undertaken by RailCorp and detailed various aspects of the duties that should be undertaken by this position. All of these recommendations are closed.

Safety Regulation

SCOI Final Report Recommendations 111 - 120

These recommendations addressed the role of ITSRR in relation to safety regulation, the governance of ITSRR and the need for more explicit guidelines from ITSRR. All of these recommendations are closed.

Integrated Safety Management

SCOI Final Report Recommendations 121 - 124

These recommendations advocated that a regulation be promulgated specifying the requirements of a safety management system (SMS) (Recommendation 121) and the steps RailCorp needs to take to ensure that its SMS is integrated (Recommendations 122 – 124). All of these recommendations are closed.

Summary

At the end of the latest reporting period, 173 (98%) recommendations have been verified and closed in the NSW Government's response to the Special Commission of Inquiry (SCOI) into the Waterfall Rail Accident.

During the last quarter (1 July – 30 September 2009), one recommendation was closed by ITSRR (Recommendation 43) and further progress was made towards implementing three of the four outstanding recommendations.

Two of these recommendations (Recommendations 36 and 37) have new interim targets dates of 28 February 2010.

ITSRR will continue to report on progress made in implementing the remaining four recommendations. As the implementation and closure of these recommendations will occur over the longer term – meaning there will be little new information to report from quarter to quarter – the format of ITSRR's reports will change to a quarterly statement.

The first statement, covering the period October to December 2009, will be published in early February 2010.

ITSRR continues to monitor the implementation of all Waterfall recommendations through its audit and inspection program.

APPENDIX 1 – TABLES AND GRAPHS

This table lists the recommendations for which each agency is responsible:

TABLE 1: RECOMMENDATIONS BY RESPONSIBLE AGENCY

RESPONSIBLE AGENCY	RECOMMENDATIONS FROM SCOI FINAL REPORT	NUMBER OF RECOMMENDATIONS INCLUDING SUB-ELEMENTS
RailCorp	1-8, 10-14, 16-20, 22, 25-27, 32, 34(a) – (h), 40, 47-53, 56, 58-62, 65-71, 83(a)-(n), 85-88, 96, 102-110(a)-(e), 122(a)-(f(i-xii)), 123,	103
Emergency Services Agencies	15, 97	2
Emergency Services Agencies & RailCorp	9, 21, 23, 24, 28	5
ITSRR	29, 30, 31, 33, 36-39, 41-46, 54-55, 57(a)-(i), 63-64, 75-80, 84, 89-95, 98-101, 113-117, 119-121, 124-125(a)-(b), 126	57
OTSI	72, 73, 74, 81, 82	5
Not assigned	35, 111, 112, 118, 127	5
TOTAL	127	177

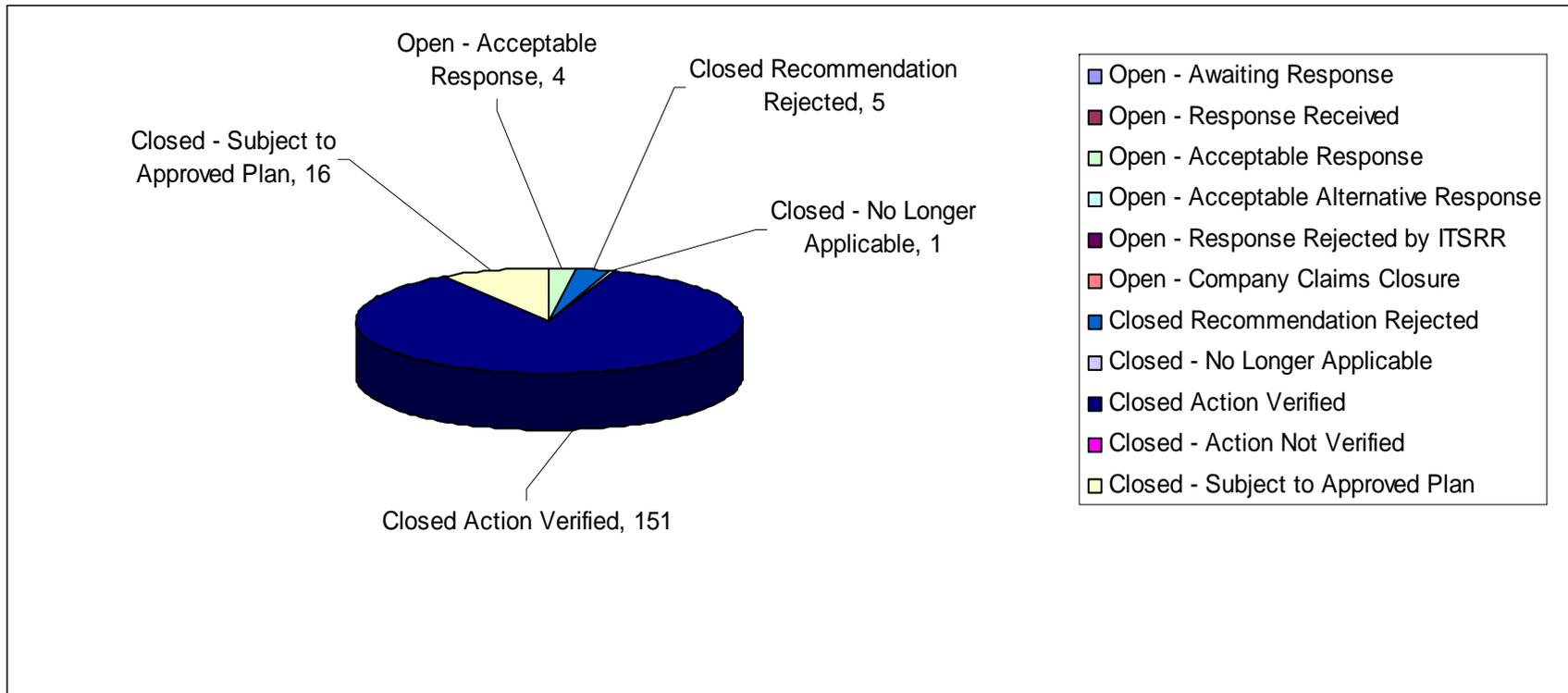
At the end of the third quarter 2009, the status of the 177 Recommendations including sub-elements of the SCOI Final Report is detailed in the following table:

TABLE 2: STATUS OF RECOMMENDATIONS INCLUDING SUB-ELEMENTS AS AT 30 SEPTEMBER 2009

Operator	Open - Awaiting Response	Open - Response Received	Open - Acceptable Response	Open - Acceptable Alternative Response	Open - Response Rejected by ITSRR	Open - Company Claims Closure	Closed Recommendation Rejected	Closed - No Longer Applicable	Closed Action Verified	Closed - Action Not Verified	Closed - Subject to Approved Plan	Total
Not Assigned							5					5
RailCorp			1			0			96		6	103
Independent Transport Safety & Reliability Regulator	0		3						44		10	57
Office of Transport Safety Investigations			0					1	4			5
NSW Emergency Services			0						2			2
RailCorp/ NSW Emergency Services			0			0			5			5
TOTAL	0	0	4	0	0	0	5	1	151	0	16	177

The graph below illustrates the recommendations according to their respective status.

GRAPH 2: CURRENT STATUS OF AGGREGATE RECOMMENDATIONS INCLUDING SUB-ELEMENTS AS AT 30 SEPTEMBER 2009.



In the SCOI Final Report recommendations were listed against specific themes or topics relating to the causal factors associated with the Waterfall Rail Accident. The following table presents the status of recommendations by these themes:

TABLE 3: STATUS OF RECOMMENDATIONS BY THEME AS AT 30 SEPTEMBER 2009

Theme	Open - Awaiting Response	Open - Response Received	Open - Acceptable Response	Open - Acceptable Alternative Response	Open - Response Rejected by ITSRR	Open - Company Claims Closure	Closed Recommendation Rejected	Closed - No Longer Applicable	Closed Action Verified	Closed - Action Not Verified	Closed - Subject to Approved Plan	Total
Emergency response 1-28	0	0	0	0	0	0	0	0	27	0	1	28
Procurement & design of rolling stock 29-30	0	0	0	0	0	0	0	0	2	0	0	2
Driver safety systems 31-33	0	0	1	0	0	0	0	0	2	0	0	3
Risk assessment and control procedures 34-35	0	0	0	0	0	0	1	0	8	0	0	9
Data loggers 36-37	0	0	2	0	0	0	0	0	0	0	0	2
Communications 38-46	0	0	1	0	0	0	0	0	8	0	0	9
Train Maintenance 47-53	0	0	0	0	0	0	0	0	7	0	0	7
Alcohol and Drug Testing 54-56	0	0	0	0	0	0	0	0	3	0	0	3
Periodic Medical Examinations 57	0	0	0	0	0	0	0	0	9	0	0	9
Safety Document Control 58-64	0	0	0	0	0	0	0	0	4	0	3	7
Train Driver and Guard Training 65-71	0	0	0	0	0	0	0	0	6	0	1	7
Rail Accident Investigation 72-82	0	0	0	0	0	0	0	1	10	0	0	11
Safety Culture 83-84	0	0	0	0	0	0	0	0	15	0	0	15
OH&S 85-87	0	0	0	0	0	0	0	0	3	0	0	3
Passenger safety 88-101	0	0	0	0	0	0	0	0	3	0	11	14
Corporate Governance 102-109	0	0	0	0	0	0	0	0	8	0	0	8
Safety Reform 110	0	0	0	0	0	0	0	0	5	0	0	5
Safety Regulation 111-120	0	0	0	0	0	0	3	0	7	0	0	10
Integrated Safety Management 121-124	0	0	0	0	0	0	0	0	21	0	0	21
Implementation of Recommendations 125-127	0	0	0	0	0	0	1	0	3	0	0	4

APPENDIX 2 – METHODOLOGY

This section outlines the processes which ITSRR has instituted to develop and monitor the Implementation Plan for the Government's response to the SCOI Final Report into the Waterfall Rail Accident.

Implementation Plan

ITSRR has reviewed the SCOI Final Report and determined action required to implement each recommendation in line with the Government's response and which company or agency has responsibility for that action. These expectations then formed the basis for determining whether the response put forward by a company or agency is appropriate to meet the recommendation and/or satisfy the safety objective of the recommendation. Responsible agencies have assigned indicative timeframes for each safety action and ITSRR will review the appropriateness of each. Timeframes agreed with responsible companies or agencies have, to the greatest extent possible, been made realistic and achievable. Details of the Implementation Plan for outstanding issues and progress against it may be found in Appendix 3 on page 33.

Classification System for Recommendations

In order to provide a graduated view of progress against the Implementation Plan, ITSRR has developed a classification system to indicate the relative status of each recommendation. The taxonomy for the Classification System has been drawn from accepted international practice and is listed in Table 4 on page 30.

The process for assigning status to a recommendation is as follows:

- Step 1 The Government's response to the SCOI Final Report determined which recommendations were accepted. ITSRR has articulated its expectations in regards to all remaining recommendations.

- Step 2 All accepted recommendations are assigned the status "Open - Await Response". These recommendations are then referred by ITSRR to the relevant company or agency to prepare a response to the recommendation(s) and submit it to ITSRR.
- Step 3 ITSRR reviews the response and determines whether it is acceptable or not. If it is acceptable then the status of the recommendation is assigned either "Open - Acceptable Response" or "Open - Acceptable Alternative Response". A recommendation would be assigned an "Open - Acceptable Alternative Response" status when the intent of a recommendation will be met but will be implemented by alternative means. If the response is not acceptable then the recommendation is assigned the status of "Open - Response Rejected". In this case, the company or agency is informed of the decision and requested to re-submit a revised response taking into account ITSRR's concerns. This process continues until the response to the recommendation is accepted by ITSRR.
- Step 4 ITSRR monitors progress of all accepted responses to ensure a company or agency is meeting agreed implementation timeframes. This is done through both desktop reviews of reports received by agencies and in-field inspections to verify progress claimed.
- Step 5 Once a company or agency has completed a required action it will submit to ITSRR a claim for closure of the recommendation. This application indicates that the company or agency believes it has completed the required action. The status of the recommendation is changed to "Open – Company Claims Closure".

Step 6 In most cases, ITSRR will verify closure through an in field compliance inspection or audit. Once verification has taken place the recommendation status is changed to indicate it is "Closed - Verified".

This process will continue until all recommendations are closed.

TABLE 4: TAXONOMY FOR CLASSIFICATION SYSTEM

	STATUS	DEFINITION
1.	Open – Await Response	This status is automatically assigned to an accepted recommendation. Affected parties will be asked to submit their response for implementing the recommendation to ITSRR.
2.	Open – Response Received	ITSRR has received a response from an affected party and this response is under review by ITSRR. It has not yet been accepted by ITSRR.
3.	Open – Acceptable Response	ITSRR agrees that the planned action, when completed, meets the recommendation.
4.	Open – Acceptable Alternative Response	ITSRR agrees that alternative action, when completed, satisfies the objective of the recommendation.
5.	Open – Response Rejected by ITSRR	ITSRR does not agree that the planned or alternate action meets the recommendation. The company or agency is advised of the rejection and requested to provide a revised response.
6.	Open – Company Claims Closure	The company or agency claims that the planned or alternate action has been completed. The action has not yet been verified by ITSRR. ITSRR has not yet agreed that the item is closed.
7.	Closed – Recommendation Rejected	ITSRR has determined through further analysis and review that the recommendation is not appropriate (i.e. will not achieve the desired safety outcomes) and has rejected the recommendation. It is therefore closed.
8.	Closed – No Longer Applicable	The recommendation has been overtaken by events and action is no longer required. For example, a new technology has eliminated the reason for the recommendation, it has been superseded by other recommendations issued, or the operator affected has gone out of business.

9.	Closed – Action Verified	Completion of the planned or alternate action has been verified by ITSRR through a compliance inspection or audit.
10.	Closed – Action Not Verified	ITSRR accepts that the planned or alternate action has been completed following a review of documentation submitted. Field verification is not necessary.
11.	Closed – Subject to the implementation of the approved program or plan.	A long term implementation plan has been approved. ITSRR will monitor reported progress against the plan to ensure compliance with delivery schedule.

RailCorp & Other Rail Operators

The SCOI Final Report primarily focused on RailCorp and actions required by it to improve safety as a consequence of the Waterfall Rail Accident. In quarterly reports therefore, ITSRR will report on recommendations specific to RailCorp. However, some recommendations from the Final Report may also be relevant to other rail operators in NSW. In light of this, ITSRR has reviewed the recommendations and identified where other rail operators may also be required to improve safety operations.

Where recommendations have applicability to the wider rail industry, ITSRR will report on progress of its own actions to ensure other operators also meet the intent of SCOI recommendations and on any general areas of concern about implementation issues across the industry. Progress on specific safety actions by other rail operators will not be reported upon in ITSRR quarterly reports.

ITSRR

ITSRR is also responsible for implementing recommendations from the SCOI Final Report. These quarterly reports will assess progress made by ITSRR on

those recommendations. The same methodology as outlined above will be used to assess the implementation status of recommendations for which ITSRR is responsible. ITSRR has established an internal process between Divisions which allows for an independent assessment of whether recommendations are being implemented according to the Implementation Plan and to ensure status reports accurately reflect progress against the Plan. The Chief Executive must sign off on all completed actions before a recommendation is closed.

Other Agencies

ITSRR has held meetings with the Office of Emergency Services and the Office of Transport Safety Investigation (OTSI) to review and discuss the implementation and reporting of recommendations under their responsibility. Review of responses from these agencies will also follow the process outlined above and will be reported quarterly. ITSRR has agreed to timeframes and actions with each of these agencies.

APPENDIX 3 – IMPLEMENTATION PLAN: OUTSTANDING RECOMMENDATIONS

NB: This table lists only the recommendations which were closed in the last quarter, or remain to be implemented. Those recommendations closed in previous quarters do not appear. A complete list of all recommendations is contained in the First Report, on ITSRR’s website at: <http://www.transportregulator.nsw.gov.au>

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
32. RailCorp should progressively implement, within a reasonable time, level 2 automatic train protection with the features identified in chapter 8 of this report.	Requires further detailed review. The Government supports the implementation of additional train protection systems. Implementation of level 2 ATP as detailed in the recommendation would involve the replacement of all line-side signalling on the RailCorp network with on-train control systems. In addition every intra and inter-state train accessing the network would also need to be equipped with level 2 ATP technology. RailCorp has already retained consultants to undertake evaluation and risk assessment regarding implementation of additional automatic train protection systems on the RailCorp network.	A detailed technical review of available options. This is to be a project lead by RailCorp. The major outcome of the project is to be a business case for Government concerning ATP.	RailCorp	Open	Acceptable Response	* 31/07/2010

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
	<p>RailCorp will work with the Australian Rail Track Corporation (which operates the interstate network) to develop, in conjunction with ITSRR and interstate rail regulators, a national standard for an automatic train protection system. RailCorp will also undertake a comprehensive review which will include a risk assessment, technical feasibility and cost benefit analysis of introducing level 1 ATP as well as level 2 ATP, as recommended by the Commission. Consistent with recommendation 34 any future options will need to be assessed by independent verification of acceptable risk.</p>					

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
36. The ITSRR should impose a standard in relation to the collection and use of data from data loggers.	Supported in principle for implementation through other means. ITSRR will introduce regulations including for data loggers that set out the expectations (or performance outcomes) required of industry. The regulations will be developed on a national basis, through the National Transport Commission process, to ensure consistent application across the Australian rail industry. Notwithstanding the expectation that industry will develop and maintain appropriate safety standards, ITSRR will retain the power to mandate such standards if the industry clearly fails to deliver satisfactory safety outcomes.	ITSRR will refer matter to NTC for development of National Regulation. In the interim, ITSRR will review existing standards set in access agreements to ensure adequate standards for collection and use of data.	Independent Transport Safety & Reliability Regulator	Open	Acceptable Response	*28/02/2010

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
37. The standard in relation to the collection and use of data from data loggers should provide that such information must be accessed in the circumstances of any accident or incident and can be accessed to monitor driver performance generally.	Supported in principle for implementation through other means. (See R 36) Information from data loggers can be accessed to monitor for any incident or accident and can be accessed to monitor a driver's performance generally.	ITSRR will refer matter to NTC for development of National Regulation ITSRR will adopt National Regulation In the interim, ITSRR will seek from RailCorp proposals to improve the monitoring of driver performance (especially for training purposes)	Independent Transport Safety & Reliability Regulator	Open	Acceptable Response	*28/02/2010
38. There must be compatibility of communications systems throughout the rail network. It is essential that all train drivers, train controllers, signallers, train guards and supervisors of trackside work gangs in New South Wales be able to communicate using the same technology.	Supported and being implemented. The National Standing Committee of Transport endorsed the Australasian Railway Association working with operators and regulators, including RailCorp and ITSRR, to develop a national approach on communications systems, which has agreed minimum functionality requirements for train radio systems. RailCorp plans to implement a digital train radio system. An objective of this system is for it to be interoperable with existing analogue radio	ITSRR to ensure functionality and compatibility requirements included in national standard, currently under development by the Australasian Railway Association. ITSRR to ensure RailCorp/ARTC Radio Functionality for next generation technology compatibility requirements.	Independent Transport Safety & Reliability Regulator	Open	Acceptable Response	31/12/2012

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
	systems. Because of the technical complexities associated with achieving inter-operability, this has been a longer-term initiative and the first stage of its implementation will commence in 2005.					
43. Communications protocols and procedures should be standardised and mandated by regulations making them a condition of accreditation.	Supported. As for R 39.	ITSRR will refer matter to NTC for development of National Regulation ITSRR will adopt National Regulation. In the interim, ITSRR will enforce compliance with the current protocols through its accreditation, audit and compliance activities.	Independent Transport Safety & Reliability Regulator	Closed	<i>Acceptable Alternative Response</i>	* 31/03/2010