



Office of Transport Safety Investigations

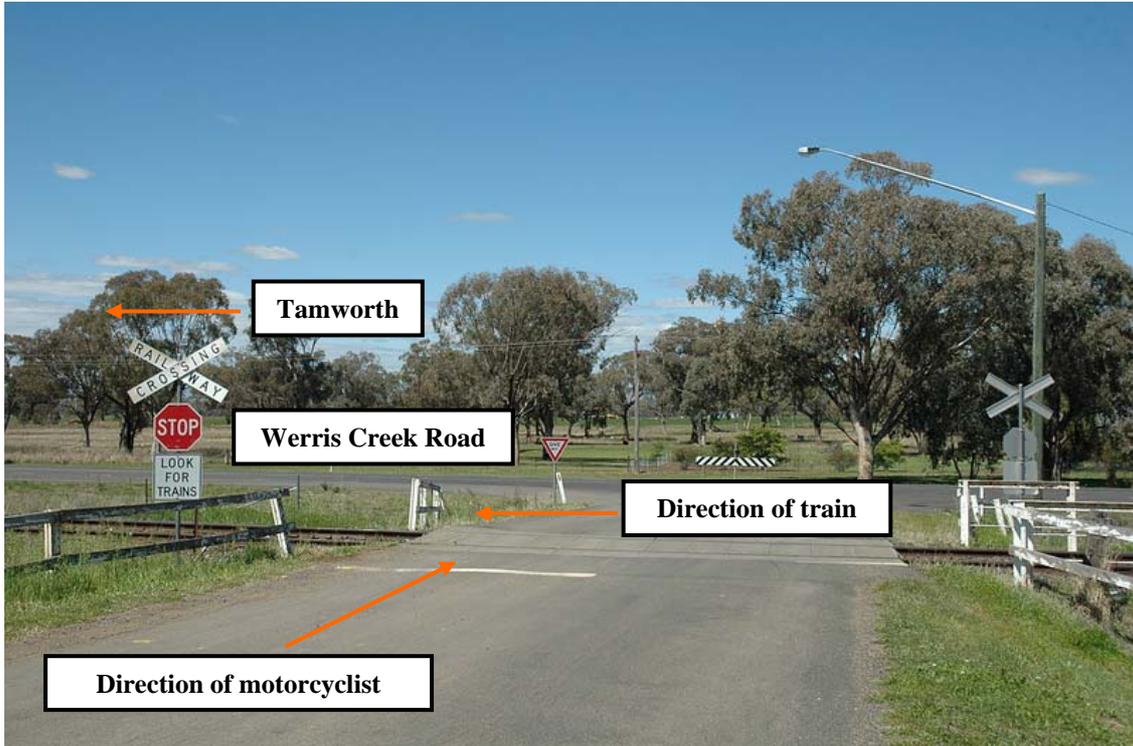
RAIL INCIDENT FACTUAL STATEMENT

**LEVEL CROSSING FATALITY
DURI, NSW**

24 SEPTEMBER 2008

Incident

On 24 September 2008 at approximately 3.53pm, a 34 year old male motorcyclist collided with the side of RailCorp's Xplorer passenger service at a level crossing in the township of Duri, near Tamworth, and sustained fatal injuries.



The level crossing at Duri

Police and NSW Ambulance officers attended the scene and an OTSI investigator was deployed from Sydney to conduct a preliminary investigation. The purpose of the preliminary investigation was to make an initial assessment of the factors which contributed to the cause of this accident and to determine whether the accident warranted further investigation by OTSI as a safety critical incident in accordance with Section 67 of the *Rail Safety Act 2002*.

OTSI's investigating officer conducted an examination of the accident site and interviewed the driver of the train and the attending Police officer. He also obtained data concerning the operation of the train from its data logger. On the basis of the information obtained, the investigating officer formed the view that the accident was caused solely by the failure of the motorcyclist to respond to properly displayed

traffic signs which clearly indicated that he was required to stop and look for trains before proceeding over the level crossing.

In the absence of other contributory factors, the Chief Investigator determined that this accident, though tragic, did not constitute a rail safety incident in accordance with the *Act* and therefore did not warrant an OTSI safety investigation in addition to the traffic accident investigation conducted by the NSW Police Force.

Published by: The Office of Transport Safety Investigations
Postal address: PO Box A2616, Sydney South, NSW 1235
Office location: Level 17, 201 Elizabeth Street, Sydney NSW 2000
Telephone: 02 9322 9200
Accident and incident notification: 1800 677 766
Facsimile: 02 9322 9299
E-mail: info@otsi.nsw.gov.au
Internet: www.otsi.nsw.gov.au

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***Released under the provisions of
Section 67(1) of the Rail Safety Act 2002 and
Section 45C(2) of the Transport Administration Act 1988***

Investigation Reference 04412

THE OFFICE OF TRANSPORT SAFETY INVESTIGATIONS

The Office of Transport Safety Investigations (OTSI) is an independent NSW agency whose purpose is to improve transport safety through the investigation of accidents and incidents in the rail, bus and ferry industries. OTSI investigations are independent of regulatory, operator or other external entities.

Established on 1 January 2004 by the Transport Administration Act 1988, and confirmed by amending legislation as an independent statutory office on 1 July 2005, OTSI is responsible for determining the causes and contributing factors of accidents and to make recommendations for the implementation of remedial safety action to prevent recurrence. Importantly, however, OTSI does not confine itself to the consideration of just those matters that caused or contributed to a particular accident; it also seeks to identify any transport safety matters which, if left unaddressed, might contribute to other accidents.

OTSI's investigations are conducted under powers conferred by the *Rail Safety Act 2002* and the *Passenger Transport Act 1990*. OTSI investigators normally seek to obtain information cooperatively when conducting an accident investigation. However, where it is necessary to do so, OTSI investigators may exercise statutory powers to interview persons, enter premises and examine and retain physical and documentary evidence.

It is not within OTSI's jurisdiction, nor an object of its investigations, to apportion blame or determine liability. At all times, OTSI's investigation reports and factual statements strive to reflect a "Just Culture" approach to the investigative process by balancing the presentation of potentially judgemental material in a manner that properly explains what happened, and why, in a fair and unbiased manner.

Where OTSI conducts a preliminary investigation of an incident but does not proceed to a full investigation in accordance with the provisions of the *Acts*, it may publish a Factual Statement about the incident on its website at www.otsi.nsw.gov.au