



Office of Transport Safety Investigations

RAIL SAFETY INVESTIGATION
INTERIM FACTUAL STATEMENT
TRACK WORKER FATALITY
KOGARAH
13 APRIL 2010



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 2008* 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 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.

Once OTSI has completed an investigation, its report is provided to the NSW Minister for Transport for tabling in Parliament. The Minister is required to table the report in both Houses of the NSW Parliament within seven days of receiving it. Following tabling, the report is published on OTSI's website at www.otsi.nsw.gov.au.

OTSI cannot compel any party to implement its recommendations and its investigative responsibilities do not extend to overseeing the implementation of recommendations it makes in its investigation reports. However, OTSI takes a close interest in the extent to which its recommendations have been accepted and acted upon. In addition, a mechanism exists through which OTSI is provided with formal advice by the Independent Transport Safety and Reliability Regulator (ITSRR) in relation to the status of actions taken by those parties to whom its recommendations are directed.

Accident Overview

A short time after 1:00am on 13 April 2010, five track workers employed by Swetha International Pty Ltd, under contract to RailCorp, commenced rubbish removal work on the tracks at Kogarah Railway Station.

At approximately 1:08am, a CityRail inter-urban service proceeded into Kogarah Station in transit to Central Station. The workers were on the track on which the train was travelling and although they moved to get out of the path of the train, one of them was struck by the train and fatally injured.

OTSI investigators attended the accident site and commenced a rail safety investigation pursuant to Section 45A of the *Transport Administration Act 1988* and Section 67 of the *Rail Safety Act 2008*.

Terms of Reference

The Chief Investigator has directed that the investigation:

- a. identifies the factors, both primary and contributory, which caused the train to strike the track worker;
- b. examines and evaluates the worksite protection arrangements in place at the time of the accident;
- c. identifies whether the accident might have been anticipated and evaluates any strategies that are employed by Swetha and RailCorp to manage the related risk/s; and
- d. advises on any matters arising from the investigation that would enhance the safety of rail operations.

Status of the Investigation

OTSI's investigation has commenced. During the course of the investigation, all Directly Involved Parties (DIPs) will be consulted and will be afforded the opportunity to comment on the Draft report before it is finalised.

Once completed, OTSI's investigation report will be tabled in both Houses of the NSW Parliament by the Minister for Transport and Roads in accordance with Section 74 of the *Rail Safety Act 2008*. When the Report has been tabled, it will be published on OTSI's website and will replace this Interim Factual Statement.