



Office of
Transport Safety
Investigations

RAIL SAFETY INVESTIGATION

Interim Factual Statement

Rail worksite protection in NSW
Systemic Investigation

April 2022



About the Office of Transport Safety Investigations (OTSI)

OTSI is an independent NSW authority which contributes to the safe operation of bus, ferry and rail passenger and rail freight services in NSW by investigating safety incidents and accidents and transport safety risks, identifying system-wide safety issues and sharing lessons with transport operators, regulators and other stakeholders.

OTSI is empowered under the *Transport Administration Act 1988* to investigate rail, bus, and ferry accidents and incidents in accordance with the provisions of the *Passenger Transport Act 1990* and *Marine Safety Act 1998*. It also conducts rail investigations on behalf of the Australian Transport Safety Bureau under the *Transport Safety Investigation Act 2003* (Cth).

OTSI investigations are independent of regulatory, operator or other external entities. OTSI investigates using a 'no-blame' approach to understand why an occurrence took place and to identify safety factors that are associated with an accident and incident, to make recommendations or highlight actions that transport operators, regulators and government can take to prevent recurrence and improve safety.

Evidence obtained through an OTSI investigation cannot be used in any subsequent criminal or disciplinary action. However, a regulator can undertake its own investigation into an incident OTSI has investigated and coronial inquiries can obtain access to OTSI information.

OTSI does not investigate all transport safety incidents and accidents but focuses its resources on those investigations considered most likely to enhance bus, ferry or rail safety.

Many accidents result from individual human or technical errors which do not involve safety systems so investigating these in detail may not be justified. In such cases, OTSI will not generally attend the scene, conduct an in-depth investigation or produce an extensive report.

OTSI may request additional information from operators or review their investigation reports which may lead to a number of actions, such as the release of a Safety Advisory or Alert to raise industry awareness of safety issues and action.

OTSI investigators normally seek to obtain information cooperatively when conducting an investigation. However, where it is necessary to do so, OTSI investigators may exercise statutory powers to conduct interviews, enter premises and examine and retain physical and documentary evidence.

Overview

Since its inception in 2004, OTSI has investigated numerous rail worksite protection incidents and accidents, including fatal events. After consideration and analysis of investigation findings, incident notification data and other sources of information, OTSI has determined that a systemic investigation in rail worksite protection NSW is warranted.

Scope of the investigation

Based on findings from OTSI's preliminary enquiries, OTSI's Chief Investigator determined that the incident warranted investigation in accordance with Section 46 of the *Passenger Transport Act 1990* (NSW).

The scope of the investigation includes, but is not limited to:

- What controls Rail Infrastructure Managers have in place to manage worksite protection
- Common causal pathways to worksite protection incidents
- Patterns of incidents specifically related to particular planning phases, or types of protection
- Technology controls proposed, researched, trialed, or currently being used to improve worksite protection in NSW and elsewhere
- Examination of whether there are common barriers to the adoption of higher order controls that minimise or eliminate workers on track including enabler to support uptake
- Actions taken to improve worksite protection in general in NSW and elsewhere
- How others, both interstate and internationally are managing worksite protection and in particular introduction of higher order controls
- The conduct of risk assessments and how they address worksite protection risks and controls

The Chief Investigator has required the Investigator in Charge (IIC) to:

- Identify the factors, both primary and contributory, which lead to worksite protection incidents;
- Examine the effectiveness of controls (using the full hierarchy) that are in place to manage the related risks;
- Examine any barriers to the take up of higher order controls including adoption of technology; and
- Advise on any matters arising from the investigation that would enhance the safety of rail operations in particular the management of worksite protection.

The IIC will consult with all Directly Involved Parties (DIPs) during the course of the investigation.

Publication of the investigation report

OTSI produces a written report on every investigation for the Minister for Transport, as required under section 46BBA of the *Passenger Transport Act 1990*.

Investigation reports strive to reflect OTSI's balanced approach to the investigation, explaining what happened and why in a fair and unbiased manner. All DIPs will be given the opportunity to comment on the draft investigation report.

The final investigation report will be provided to the Minister for tabling in both Houses of the NSW Parliament in accordance with section 46D of the *Passenger Transport Act 1990*. The Minister is required to table the report within seven days of receiving it.

Following tabling, the report is published on the OTSI website and information on the safety lessons promoted to relevant stakeholders. The published report will replace this Interim Factual Statement.