



INDEPENDENT  
TRANSPORT  
SAFETY AND  
RELIABILITY  
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: October - December 2007*



*ITSRR Quarterly Report Twelve*

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

*Reporting Period:*  
**October - December 2007**

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REGULATOR

31 January 2008

The Hon John Watkins MP  
Deputy Premier and Minister for Transport  
Level 30, Governor Macquarie Tower  
1 Farrer Place  
Sydney NSW 2000

Dear Minister

I am pleased to provide the twelfth 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 October to 31 December 2007. The next report will reflect the progress made in the quarter 1 January to 31 March 2008.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carolyn Walsh'.

Carolyn Walsh  
**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 twelfth Quarterly Report. It outlines progress made between 1 October and 31 December 2007.

### **Implementation Summary**

During the quarter no recommendations were closed but the following progress was made with regard to a number of the remaining recommendations:

- RailCorp commenced a trial of three types of Automatic Train Protection (ATP) technology on sections of the Blue Mountains line. Each of the three manufacturers will install their ATP system into a trial train which will then be tested over sections of track. To date one manufacturer has fitted a trial train and performed the tests.

ITSRR will review RailCorp's assessment of the outcomes of the trial following its completion in the first half of 2008 (Recommendation 32).

- The National Transport Commission (NTC) has included in its national legislation maintenance program the development of an appropriate amendment to the national model regulations to establish a new requirement that rolling stock operators ensure they are in a position to provide certain information relevant to the operation of their rolling stock if and when an accident or incident occurs. The target date of these recommendations is 30 June 2008 (Recommendations 36 and 37).
- NSW again raised the need for nationally consistent regulations for communication terminology, protocols and procedures with the NTC at

the December 2007 meeting of the Rail Safety Package Steering Committee (RSPSC). The NTC confirmed its view that a national regulation was not warranted and that such arrangements might be best achieved through national protocols, terminology and procedures developed and implemented by operators.

At the meeting, the Australasian Railway Association (ARA) indicated that its National Network Rules Project does include standard communication terminology, procedures and protocols which will meet the intent of this recommendation.

The Steering Committee agreed that the ARA should formally present to its March 2008 meeting on how the Network Rules Project will achieve the intent of this recommendation (Recommendation 43).

- ITSRR verified that RailCorp has implemented a process for auditing electric train faults. However, during verification, ITSRR identified instances where defects had not been entered into RailCorp's electronic defect reporting database (METRE) for rectification and subsequent audit findings by RailCorp identifying this error were not reported to RailCorp's Rolling Stock Division for rectification.

ITSRR alerted RailCorp to these issues and RailCorp has acted to address them. ITSRR will monitor whether these corrective actions have been successful in the next reporting period (Recommendation 53).

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:

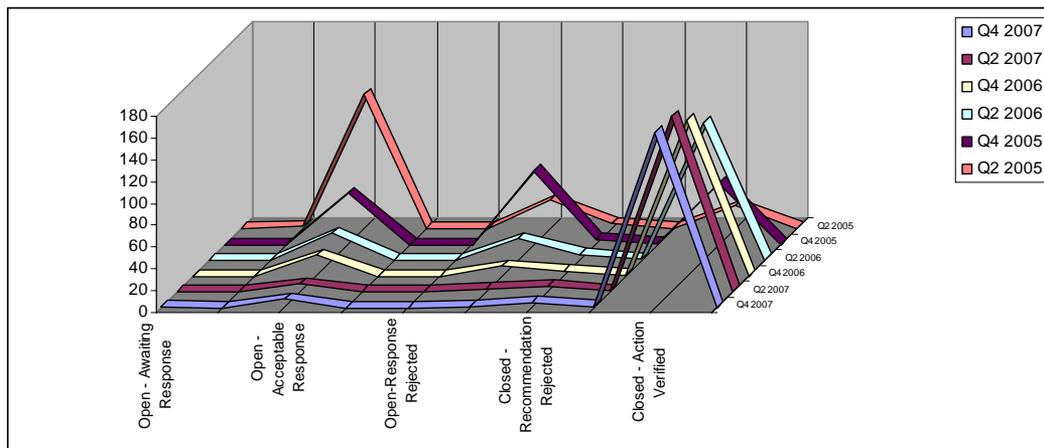
- 167 (94%) recommendations verified and closed
- 3 (2.5%) recommendations open acceptable response (Recommendations 1, 20 & 32)

- 2 (1%) recommendations slipped (Recommendations 30 & 71)
- 1 (0.5%) recommendation is currently claimed for closure by RailCorp and is being verified by ITSRR (Recommendation 53)
- 1 (0.5%) recommendation is scheduled to be implemented by 2010 (Recommendation 38)
- 2 (1%) recommendations referred to the NTC have revised implementation timeframes based on advice from the NTC (Recommendations 36 & 37)
- 1 (0.5%) recommendation previously reported as "open-acceptable-response" has been given a revised status of "open-await-response" (Recommendation 43).

This brings the total number of recommendations currently closed or claimed by agencies to be closed to 168 or 95% of all recommendations.

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

During the reporting period two recommendations were not implemented by their scheduled target dates. In ITSRR's view, these recommendations do not pose immediate or significant safety risks to the NSW travelling public. The recommendations that slipped are in the following areas:

- Recommendation 30 concerns the setting of standards for the design, manufacture and commissioning of rolling stock to ensure that it is fit for purpose.

In December 2006 the Australian Transport Council (ATC) voted in favour of the National Model Rail Safety Regulations. Item P of Schedule 1 to the Model Regulations require rail transport operators to have (and incorporate as part of their safety management system) a documented set of engineering standards and procedures, operational systems, safety standards and procedures, to cover rail infrastructure, rolling stock and operational systems and, if relevant, the interface between any two or more of them.

The Regulations require rail transport operators to have systems, procedures and standards sufficient to manage the lifecycle of their rail infrastructure and rolling stock from design, construction, and installation through to decommissioning or disposal. The implementation of these Regulations will meet the requirement of Recommendation 30 and was to be implemented by 31 December 2007.

In the previous quarter ITSRR released for public consultation draft NSW Regulations which adopt the approved National Model Rail Safety Regulations and support the *Rail Safety Bill 2007*. The draft Bill has been refined following the public consultation process and ITSRR is currently reviewing industry feedback on the draft Regulations.

In order to ensure consistency between rail safety and occupational health and safety laws in NSW, the Bill and Regulations will not be introduced to Parliament until the outcomes of the Stein Inquiry into the *Occupational Health and Safety Act 2000* have been considered.

While the target date for implementation of the national Regulations has slipped, the requirements of these Regulations are already being implemented in NSW through a mandatory Safety Management System (SMS) Guideline introduced by ITSRR. As it is a condition of accreditation that NSW rail operators comply with this Guideline, NSW has effectively regulated for the standards recommended by the SCOI. However, consistent with the Commission's findings that safety regulation reform should be pursued at the national level, ITSRR will continue to work towards the implementation of nationally consistent regulations covering SMS requirements (Recommendation 30).

- Recommendation 71 concerns the creation of an appropriate position within RailCorp that has responsibility for ensuring each train driver's training needs are being met and any safety concerns are properly addressed. Ongoing negotiations and consultation with service unions has meant it has taken longer than anticipated to fill these positions.

In the absence of this recommendation being implemented ITSRR proposes to meet with RailCorp in the next quarter to ensure train drivers' training needs are being met using other existing mechanisms and to assess whether the delay has any potential safety implications. A revised target date of 30 June 2008 has been set (Recommendation 71).

## **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.

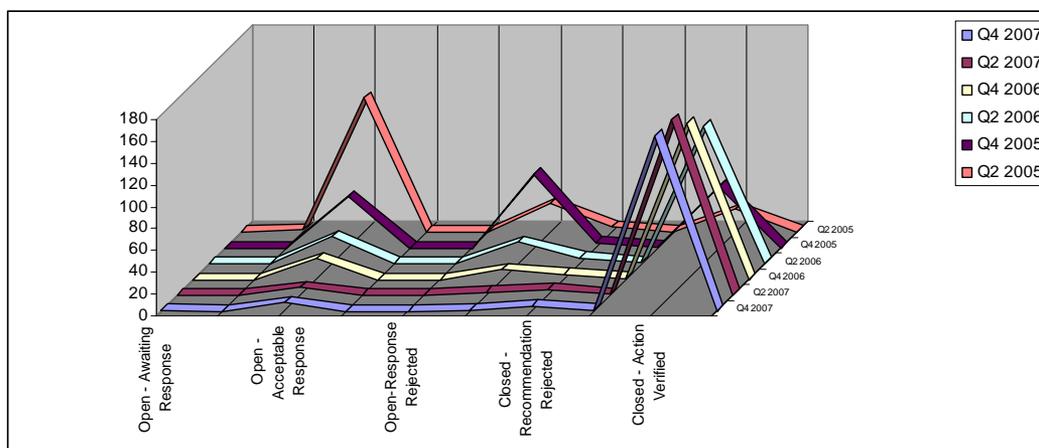
## SUMMARY OF PROGRESS

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](http://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 31 December 2007. As time has progressed the peak has shifted (as expected) along the x-axis as all recommendations are closed.

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. These recommendations require the provision of supporting emergency procedures and appropriate training in those procedures. Recommendations 2-19 and 21-28 are closed.

As reported last quarter RailCorp provided ITSRR with an outline of the proposed Rail Management Centre Competence Management Action Plan which has been developed to address the intent of Recommendation 1. The new action plan developed for Recommendation 1 will address issues relating to Recommendation 20 which have prevented ITSRR from closing Recommendation 20.

During the quarter RailCorp continued work on the plan which has a target date of June 2008.

## **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). Recommendation 29 is closed.

In December 2006 the Australian Transport Council (ATC) voted in favour of the National Model Rail Safety Regulations. Item P of Schedule 1 to the Model Regulations require rail transport operators to have (and incorporate as part of their safety management system) a documented set of engineering standards and procedures, and operational systems, safety standards and procedures, to cover rail infrastructure, rolling stock and operational systems and, if relevant, the interface between any two or more of them.

The Regulations require rail transport operators to have systems, procedures and standards sufficient to manage the lifecycle of the rail infrastructure and rolling stock from design, construction, and installation through to decommissioning or disposal. The implementation of these Regulations will meet the requirement of Recommendation 30 and was to be implemented by 31 December 2007.

In the previous quarter ITSRR released NSW draft Regulations for public consultation. The NSW regulations adopt the National Model Rail Safety Regulations approved by the ATC and support the *Rail Safety Bill 2007*. The draft Bill has been refined following the consultation process and ITSRR is reviewing industry feedback on the draft Regulations.

In order to ensure consistency between rail safety and occupational health and safety laws in NSW, the Bill and Regulations will not be introduced to Parliament until the outcomes of the Stein Inquiry into the *Occupational Health and Safety Act 2000* have been considered.

While the target date for implementation of the national Regulations has slipped, the requirements of these Regulations are already being implemented in NSW through a mandatory Safety Management System (SMS) Guideline introduced by ITSRR.

As it is a condition of accreditation that NSW rail operators comply with this Guideline, NSW has effectively regulated for the standards recommended by

the SCOI. However, consistent with the Commission's findings that safety regulation reform should be pursued at the national level, ITSRR will continue to work towards the implementation of nationally consistent regulations covering SMS requirements (Recommendation 30).

## **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.

RailCorp commenced a trial of three types of Automatic Train Protection (ATP) technology on sections of the Blue Mountains line. Each of the three manufacturers will install their ATP system into a trial train which will then be tested over sections of track. To date one manufacturer has fitted a trial train and performed the tests.

ITSRR will review RailCorp's assessment of the outcomes of the trial following its completion in the first half of 2008 (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.

The National Transport Commission (NTC) has included in its national legislation maintenance program the development of an appropriate amendment to the national model regulations to establish a new requirement that rolling stock operators ensure they are in a position to provide certain information relevant to the operation of their rolling stock if and when an accident or incident occurs.

The target date of these recommendations is 30 June 2008 (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, signalers, train controllers and other relevant personnel (with different types of communications equipment) are able to talk to each other. Recommendations 39 - 42 and 44 - 46 are closed and the introduction of national communications technical standards will be implemented by 2010 (Recommendation 38).

Recommendation 43 concerns the mandating of communication terminology, protocols and procedures through regulations.

The NSW Network Rules and Procedures include requirements for consistent communication terminology, protocols and procedures. While these are broadly similar to those adopted in other jurisdictions, they are not standardised or mandated through regulation.

As reported in the last quarter, the National Transport Commission (NTC) has completed its impact assessment and concluded that it is not appropriate to mandate communications terminology, protocols and procedures through the use of national regulations.

At the December 2007 meeting of the Rail Safety Package Steering Committee, NSW again raised with the NTC the need for a nationally consistent regulation for communications terminology, procedures and protocols.

The NTC confirmed its view that a national regulation was not the appropriate mechanism for ensuring consistency in these matters. It suggested that the regulators in individual jurisdictions determine if such requirements ought to be mandated or industry operators should develop and implement consistent communication terminology, protocols and procedures through national network rules.

During the meeting, the Australasian Railway Association (ARA) indicated that its Network Rules Project will achieve the desired national consistency. The Steering Committee agreed that the ARA should formally present to its March 2008 meeting on how the Network Rules Project will achieve the intent of Recommendation 43.

On this basis, ITSRR has reclassified the status of this recommendation from “Open – Acceptable Response” to “Open – Await Response” and has set a revised interim target date of 30 April 2008.

It is important to reiterate that while these discussions are occurring at a national level, standard communications terminology, protocols and

procedures are already in place in NSW through the NSW Network Rules. To ensure consistent application of these rules ITSRR targets compliance with them through its audit and inspection program.

NSW has also mandated Guidelines Relating to Network Rules which ensure that any changes to the Network Rule Book – including communications terminology, protocols and procedures – apply consistently throughout NSW (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 47-52 are closed.

Recommendation 53 requires train inspections to be carried out at the time of stabling RailCorp trains, as well as a part of train preparation prior to entering service. The purpose of this reform is to ensure that train defects are detected early so that sufficient time is allowed for their repair. This should reduce pressure on those inspecting the trains just prior to service from allowing trains to enter into service with defects that could impact on their safe operation.

During the quarter ITSRR verified that RailCorp has implemented a process for auditing electric train faults which addresses these concerns. However, during verification, ITSRR identified instances where defects had not been entered into RailCorp's electronic defect reporting database (METRE) for rectification and subsequent audit findings by RailCorp identifying this error were not reported to RailCorp's Rolling Stock Division for rectification.

ITSRR alerted RailCorp to these issues and RailCorp has acted to address them. ITSRR will monitor whether these corrective actions have been successful in the next reporting period (Recommendation 53).

## **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 recommend 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. ITSRR accepted this as an acceptable alternative response to the recommendation.

The NTC has since provided further clarification about the processes surrounding the Standard's maintenance program. It has advised that the Standard will be reviewed during 2008-2009 and proposed revisions, such as the inclusion of quality control measures, will be incorporated into the review but their adoption will be dependent upon the outcome of an impact assessment.

Consequently, the recommendation remains closed, however, in the interests of transparency, ITSRR will report on the outcome of the impact assessment with respect to 57 (d) when the revised Standard is published. The revised Standard is due to be published in 2009-2010 (Recommendation 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. Recommendations 65-70 are closed.

During the reporting period the target date for Recommendation 71 was revised. This recommendation concerns the creation of an appropriate position within RailCorp that has responsibility for ensuring each train driver's training needs are being met and any safety concerns are properly addressed.

Ongoing consultation with service unions has meant it has taken longer than anticipated to establish these positions. In the absence of this recommendation being implemented ITSRR proposes to meet with RailCorp in the next quarter to ensure train drivers' training needs are being met using other existing mechanisms and to assess whether the delay has any potential safety implications. A revised target date of 30 June 2008 has been set (Recommendation 71).

## **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

Public reporting, through ITSRR's quarterly reports, of progress in implementing the NSW Government's response to the Special Commission of Inquiry into the Waterfall Rail Accident continues to play an important role in the overall process of driving improvements to rail safety in NSW.

The introduction of a range of important and practical improvements to rail safety systems in NSW as a result of the SCOI recommendations is helping to achieve safety improvements that will reduce the likelihood of accidents like the one at Waterfall from occurring in the future.

To date a total of 168 (or 95%) of the recommendations contained in the NSW Government's response to the Special Commission of Inquiry (SCOI) into the Waterfall Accident are now closed or claimed for closure.

ITSRR will continue to monitor, verify and report on the progress of the remaining recommendations and, importantly, to scrutinize the ongoing compliance of closed 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

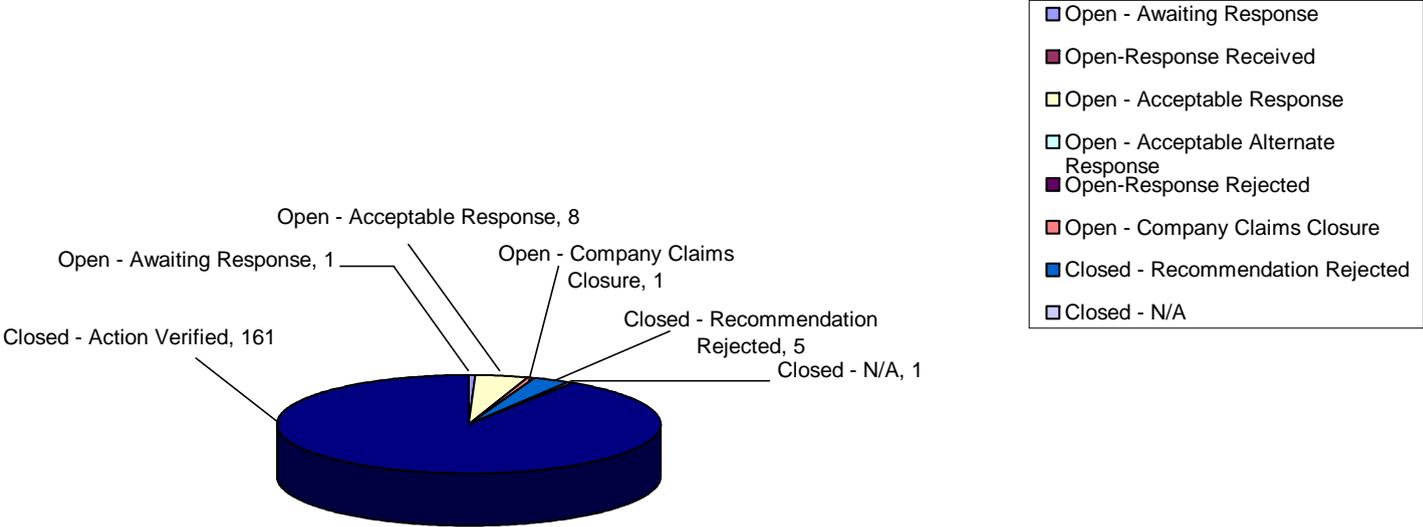
At the end of the fourth quarter 2007, the status of the 177 Recommendations including sub-elements of the SCOI Final Report is detailed in the following table:

TABLE 2: STATUS OF RECOMMENDATIONS INCLUDING SUB-ELEMENTS AS AT 31 DECEMBER 2007

Operator	Open - Awaiting Response	Open-Response Received	Open - Acceptable Response	Open - Acceptable Alternate Response	Open-Response Rejected	Open - Company Claims Closure	Closed - Recommendation Rejected	Closed - N/A	Closed - Action Verified	Closed - Action Not verified	Total
Not Assigned							5				5
RailCorp			4			1			98		103
Independent Transport Safety & Reliability Regulator	1		4						52		57
Office of Transport Safety Investigations			0					1	4		5
NSW Emergency Services			0						2		2
RailCorp/ NSW Emergency Services			0			0			5		5
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>1</b>	<b>161</b>	<b>0</b>	<b>177</b>

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

**GRAPH 2: CURRENT STATUS OF AGGREGATE RECOMMENDATIONS INCLUDING SUB-ELEMENTS AS AT 31 DECEMBER 2007.**



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 31 DECEMBER 2007

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	Total
Emergency response 1-28	0	0	2	0	0	0	0	0	26	0	28
Procurement & design of rolling stock 29-30	0	0	1	0	0	0	0	0	1	0	2
Driver safety systems 31-33	0	0	1	0	0	0	0	0	2	0	3
Risk assessment and control procedures 34-35	0	0	0	0	0	0	1	0	8	0	9
Data loggers 36-37	0	0	2	0	0	0	0	0	0	0	2
Communications 38-46	1	0	1	0	0	0	0	0	7	0	9
Train Maintenance 47-53	0	0	0	0	0	1	0	0	6	0	7
Alcohol and Drug Testing 54-56	0	0	0	0	0	0	0	0	3	0	3
Periodic Medical Examinations 57	0	0	0	0	0	0	0	0	9	0	9
Safety Document Control 58-64	0	0	0	0	0	0	0	0	7	0	7
Train Driver and Guard Training 65-71	0	0	1	0	0	0	0	0	6	0	7
Rail Accident Investigation 72-82	0	0	0	0	0	0	0	1	10	0	11
Safety Culture 83-84	0	0	0	0	0	0	0	0	15	0	15
OH&S 85-87	0	0	0	0	0	0	0	0	3	0	3
Passenger safety 88-101	0	0	0	0	0	0	0	0	14	0	14
Corporate Governance 102-109	0	0	0	0	0	0	0	0	8	0	8
Safety Reform 110	0	0	0	0	0	0	0	0	5	0	5
Safety Regulation 111-120	0	0	0	0	0	0	3	0	7	0	10
Integrated Safety Management 121-124	0	0	0	0	0	0	0	0	21	0	21
Implementation of Recommendations 125-127	0	0	0	0	0	0	1	0	3	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 46.

### **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 33.

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

	<b>STATUS</b>	<b>DEFINITION</b>
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.

## **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
1. Staff at the Rail Management Centre (RMC) should receive training from RailCorp to enable them to quickly and accurately assess that an emergency has occurred and to provide precise and reliable information to emergency response personnel about the location of the emergency, the available access to the site and the resources necessary.	Supported and being implemented.	RailCorp to provide: a) Evidence of Development of Training Program that addresses issues identified in the SCOI.(Includes Development Process, Training Aids / Curriculum). b) Evidence of Appropriate Assessment Competency. (Delivery of course by appropriately qualified trainers.) c) Evidence of process to ensure the training of new staff and the Refresher training of existing staff. d) Review process built-in, to take into account relevance and changes.	RailCorp	Open	Acceptable Response	30/06/2008

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
20. All operational rail staff should be trained by RailCorp in the action check list relevant to each.	Supported.	That a joint or jointly developed plan is produced by the Agencies. The details of the plan are to include, amongst other things: immediate response, site management and recovery processes. Also requires the development of: - Comprehensive Incident Management Plans/Procedures.- Development of Network Incident Management plan with RailCorp (Track Manager).- Training Issues to ensure that staff can implement.- Development / Implementation of checklists- Distribution of the checklists and alignment with the staff training and emergency exercises. To ensure that training requirements met under Recommendation 3 namely, RailCorp to provide: a) Evidence of Development of Training Program that addresses issues (includes Development Process, Training Aids / Curriculum); b) Evidence of Appropriate Assessment Competency. Delivery of course by	RailCorp	Open	Acceptable Response	30/06/2008

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
		<p>appropriately qualified trainers; c) Evidence of process to ensure the training of new staff and the Refresher training of existing staff; d) Review process built-in, to take into account relevance and changes; e) Evidence of Training of Skills assessment; f) Evidence of responsibilities in PD; g) Evidence of responsibilities reflected in plan. To ensure that staff can implement emergency procedures in respect of Recommendations: 11 (use by all emergency response personnel of a uniform incident command system); 12 (appointment of a rail emergency management co-ordinator at the RMC, and an on-site rail commander); 13 (Site Controller to have complete control of the site &amp; the Rail Commander must report to this position ); 14 (Incident Command System has clearly identified roles and that a joint or jointly developed plan is produced by the Agencies); 16 (rail commander should provide support and assistance to the</p>				

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
		<p>site controller and emergency services personnel); 17 (The rail commander should have complete authority to direct and control all response personnel from rail organisations); 19 (The RailCorp emergency response plan should include action checklists of the steps that each employee is required to take, and the order for specific employees to follow in case of emergency.</p>				

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
<p>30. The rail safety regulator should set standards for the design, manufacture, testing and commissioning of rolling stock to ensure that the rolling stock is fit for its purpose.</p>	<p>Supported in principle and being implemented through other means. ITSRR will introduce regulations including for rolling stock 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.</p>	<p>ITSRR will refer matter to NTC for development of National Regulation. In the interim, ITSRR will require operators, through the accreditation process to meet existing industry standards for rolling stock acquisition, including AS4292, rolling stock units, Train Operating Conditions and Industry technical codes.</p>	<p>Independent Transport Safety &amp; Reliability Regulator</p>	<p>Open</p>	<p>Acceptable Response</p>	<p>30/12/2007 + TBA</p>

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
<p>32. RailCorp should progressively implement, within a reasonable time, level 2 automatic train protection with the features identified in chapter 8 of this report.</p>	<p>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. 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</p>	<p>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.</p>	<p>RailCorp</p>	<p>Open</p>	<p>Acceptable Response</p>	<p>*30/06/2008</p>

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
	<p>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	*30/06/2008

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	*30/06/2008
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 systems. Because of the	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	31/12/2010

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
	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	Open	Await Response	*30/04/2008

Recommendation	Government Response	ITSRR Expectation	Agency	Status	ITSRR Assessment	Target Date
53. Train inspections should be carried out at the time of stabling RailCorp trains, as well as a part of train preparation prior to entering service.	Supported in principle for further review. RailCorp is reviewing procedures and resources to rectify defects. RailCorp provides time for drivers of stabling trains to report any noted defect.	A document risk assessment and/or business case by RailCorp, detailing how train integrity on entering into service is to be managed.	RailCorp	Open	Agency Claims Closure	31/08/2007
71. The position of team leader should be created by RailCorp to be responsible for a group of approximately 30 train drivers, with responsibility to ensure that each train driver's training needs are being met and that any safety concerns of train drivers are being properly addressed. The team leaders are to have direct access to the Chief Executive of RailCorp if any safety concerns they have are not addressed	Supported in principle for further review. RailCorp is reviewing the current supervisory structure of train crewing in light of this recommendation.	Creation of appropriate position to carry out functions outlined in Rec 71.	RailCorp	Open	Acceptable Response	+30/06/2008