

# Time for rail industry safety

## When will national regulator act on locomotive lighting?



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With this week National Rail Safety Week, August 8-14, I would like to know when the national rail safety regulator Office of the National Rail Safety Regulator is going to act to improve the poor and protracted safety performance of the rail industry in Australia?

It is blatantly clear there is more they should and could be doing.

The ONRSR was set up in 2013 supposedly to ensure better rail safety protection for the entire Australian community and to oversee compliance with a new Rail Safety National Law now in place in all States of Australia.

I am familiar with the history of its establishment because of a horrific accident at a passive level crossing in the WA Wheatbelt that claimed the lives of my brother and his two friends in 2000 — this accident was one of the catalysts that led to its formation.

This tragic triple-fatality also resulted in recommendations by State Coroner Alastair Hope in 2001 for all locomotives to be fitted with external lighting in addition to ditch lighting to effectively warn motorists of their approach as inadequate train lighting was considered a factor in the crash and resulting death of my brother and his friends.

The rail industry and the ONRSR (since its formation) have completely ignored these safety recommendations in addition to train lighting and passive level crossing safety recommendations made by two other State Coroners (NSW and Victoria) as well as findings from numerous committees on train illumination and passive level crossing safety after several high-profile rail crashes spanning many decades.

The Rail Safety National Law (WA) Act 2015 unequivocally states the ONRSR must (a) facilitate the safe operations of rail transport in Australia and (b) exhibit independence, rigour, and excellence in carrying out its regulatory functions and (c) promote safety and safety improvement as a fundamental objective in the delivery of rail transport in Australia.

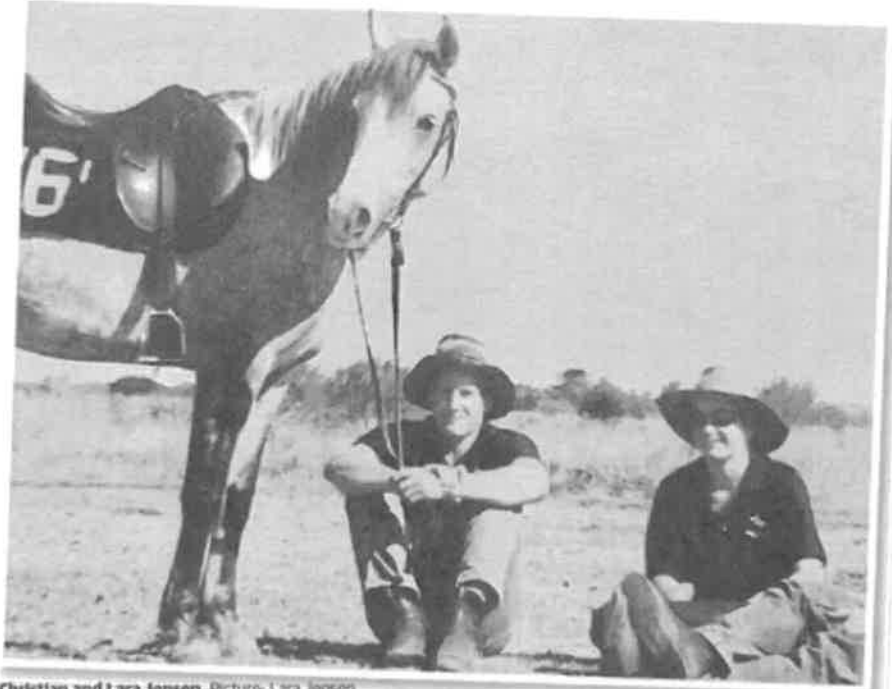
I argue it is failing to meet all three of these stated objectives.

To back up this statement look no further than the ONRSR's own research showing there were 34 level crossing collisions resulting in four fatalities and four serious injuries just last financial year with a staggering average of 200 near misses annually. Hardly the relentless pursuit of excellence.

Alarming, despite the enactment of the Rail Safety National Law since 2012, no legislation whatsoever has been introduced to improve train lighting around Australia.

It is nothing short of a disgrace that in WA, the only change to train illumination in more than five decades is the addition of ditch lights to locomotives.

But as Coroner Hope stated in his annual report in 2001, "these crossing lights do very little to illuminate the train itself or provide a light source directed to traffic approaching a railway



Christian and Lara Jensen. Picture: Lara Jensen.

lighting in Australia is still quite literally stuck in the dark ages.

Furthermore, the ONRSR generates extremely healthy levels of revenue from industry and government.

To give an example the ONRSR's 2020-21 Annual Report states revenue from fees and charges of \$39,713,000.

Regardless, for the income received I want to know what the Australian community is getting for this \$39 million?

Because, from where I stand as a regional Australian resident, we are getting a very minimal return on both the Rail Safety Law or the ONRSR as the regulator.

This is because the ONRSR allows the rail industry to work to a minimum standard and on its website one of its key functions is "to reduce the regulatory burden on the rail industry".

In a letter our family received from the ONRSR last year, it stated the onus is on rail transport operators to eliminate a safety risk. "So Far As Is Reasonably Practicable".

Even more disturbing is the fact that the Rail Industry Safety and Standards Board (RISSB) standard governing train visibility (AS7531 Lighting and Visibility) is a minimum standard that is not even mandatory, so rail companies don't have to comply with it in anyway.

It is undeniable that the threshold of what is "Reasonably Practicable" for the rail industry (improved technology, better lighting options, solar technology) has significantly shifted over the decades and therefore so must their safety practices.

There is also a growing public awareness of better operating practices in train lighting concepts like "Yarramony Lights" put forward by the highly qualified road and rail safety expert Dr Brett Hughes earlier

families of rail crash victims continue to be ignored by the rail industry (not one rail company has agreed to even look at, let alone seriously consider Yarramony Lights) and in my opinion, this just highlights the culpability of these companies and co-operatives when the next accident eventuates.

And sadly, the next accident is only a matter of time.

No other industry in Australia is allowed continuously to ignore the risks they create as part of their business operations, keep recording the fatalities that eventuate, and continue to do nothing about them.

To put it in layman's terms, if I choose to ignore safety hazards on our cattle station and an employee is killed, I am instantly liable for industrial manslaughter charges.

Why should the rail industry be treated any differently when poor train visibility is a well-documented contributing factor in accidents year in, year out?

Well, the truth is they have been getting away with what equates to statutory manslaughter for decades. Why? The rail industry is powerful and profitable and has historically been afforded a degree of protection by the Government that is reprehensible.

It is also incumbent upon national safety regulator ONRSR to recognise risks, mitigate these risks and regulate the rail industry accordingly to protect the safety of the Australian community according to the responsibility it has been charged with.

By devolving this responsibility to the rail industry, the ONRSR has demonstrated that it's not meeting its safety objectives at level crossings. Its actions have been minimal and inadequate, along with that of the rail

unfathomable that following on from the Freight Train Visibility Review released in February this year that the ONRSR has prescribed further train lighting trials when hazard lighting is universally accepted in all other industries (road transport, mining, maritime and aviation), so there is absolutely no need to do more trials or experiments.

The only way the ONRSR are ever going to "prove" whether anything works is to insist rail companies put better lighting and livery (colour) on to trains and see what the difference in crashes is.

But predictably, as our families saw from similar lighting trials conducted in WA in 2001, trials are an expensive waste of time and achieve nothing.

As a result, we anticipate the current lighting trials under way will be used as another excuse to do nothing or an opportunity to propose yet more costly research.

If the rail industry wants to be perceived as demonstrating any duty of care whatsoever for their own train drivers or wants to show the public that they have a legitimate social licence to operate, they should want to do all they can to mitigate the risk of collisions at passive level crossings by making their locomotives and rolling stock clearly visible and illuminated at all times.

And if they don't (which sadly is the current state of play) it's the job of the ONRSR to force the rail industry to comply with lighting standards that finally move trains out of the 1800s if it is to retain a shred of credibility as the national regulator.

Otherwise, our national rail regulator will remain an expensive waste of time and money and a "regulator" that doesn't regulate.

**No other industry in Australia is allowed continuously to ignore the risks they create.**