

CHAIN OF RESPONSIBILITY



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A Division of UrbanGlobal



Welcome to the COR Management Plan Webinar

Your presenter today is:

Andrew Watt



Module 1:

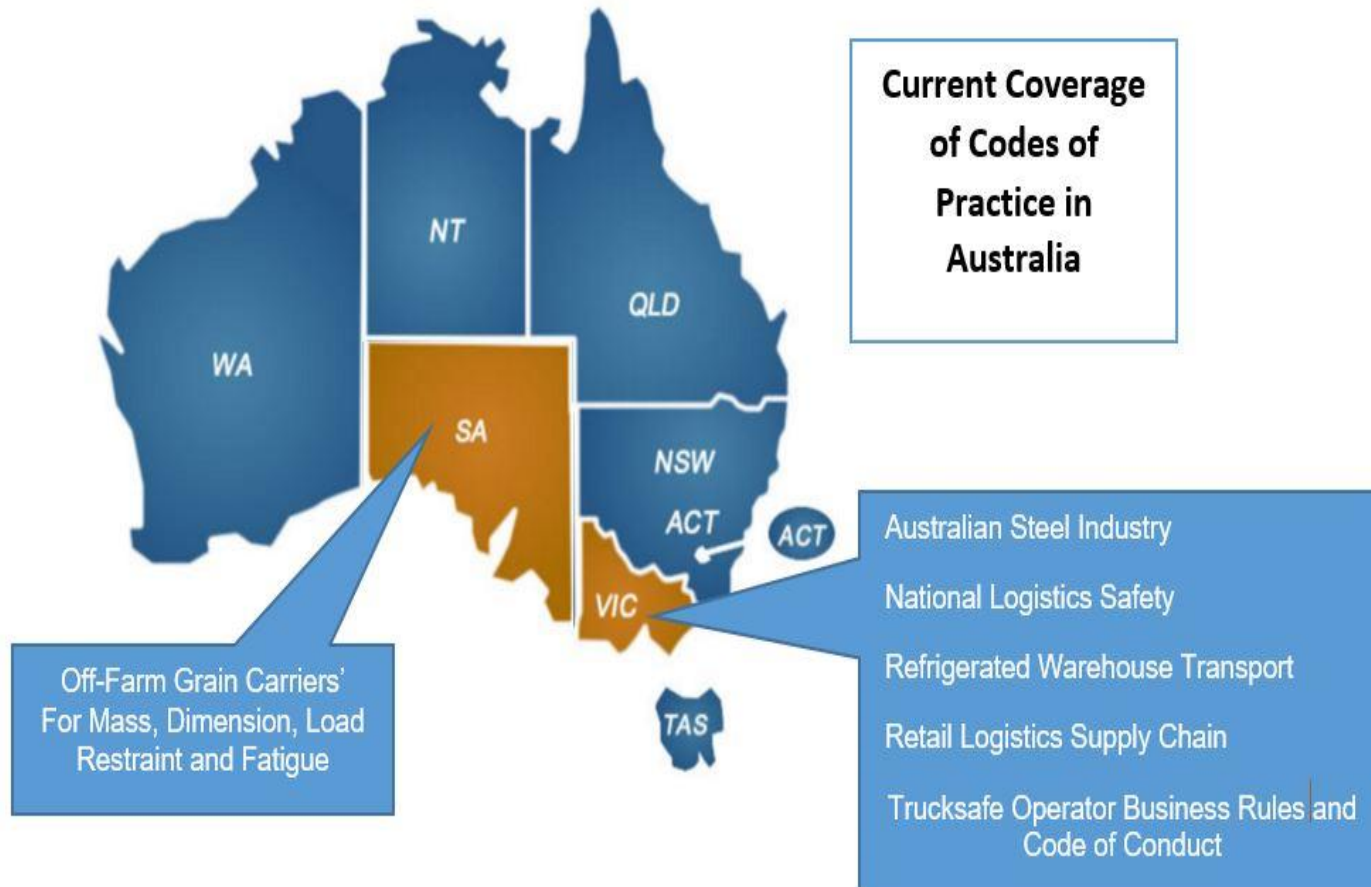
COR Management Plan



Comparing NHV Law and WHS Law

NHV	WHS
Prescriptive	Empowering
Reactive	Pre-emptive
Compliance	Hierarchy of Control
Detailed Records	Systems and Oversight
Verification and fine	Improvement
Narrow application	General application
Some Workplaces	All workplaces and Vehicles
Old Enforcement model	Current regulatory model
Observed breach	Root Cause
Road Based Jurisdiction	All locations (road and sites)
“Compliance with laws” clause	“Common standards”
Them / Us	Shared Objectives

Limited coverage



SOURCE: <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/industry-codes-of-practice-and-accreditation>

WHS Standards that Regulate Transport

Area	NHV Law or COR Standard	WHS Code of Practice
Loading/ Unloading	<ul style="list-style-type: none"> • Loading / Unloading Exclusion Zone Guidelines 2010 • NTC Load Restraint Guideline 2004 • NHV Law Mass Offences 	<ul style="list-style-type: none"> • Managing Risks when Unpacking Shipping Containers Information Sheet • Managing the Risk of Falls at Workplaces • Workplace Traffic Management Guidance Material • Precast Tilt-Up and Concrete Elements in Building Construction • How to Manage Work Health and Safety Risks • Falling Object – Fact Sheet
Load Restraint	<ul style="list-style-type: none"> • NTC Load Restraint Guideline 2004 • NHV Law Load Restraint Offences 	<ul style="list-style-type: none"> • Guidance Material for the Safe Design, Manufacture, Import and Supply of Plant • Precast Tilt-Up and Concrete Elements in Building Construction • How to Manage Work Health and Safety Risks
Maintenance	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Managing Risks of Plant in the Workplace • How to Manage Work Health and Safety Risks

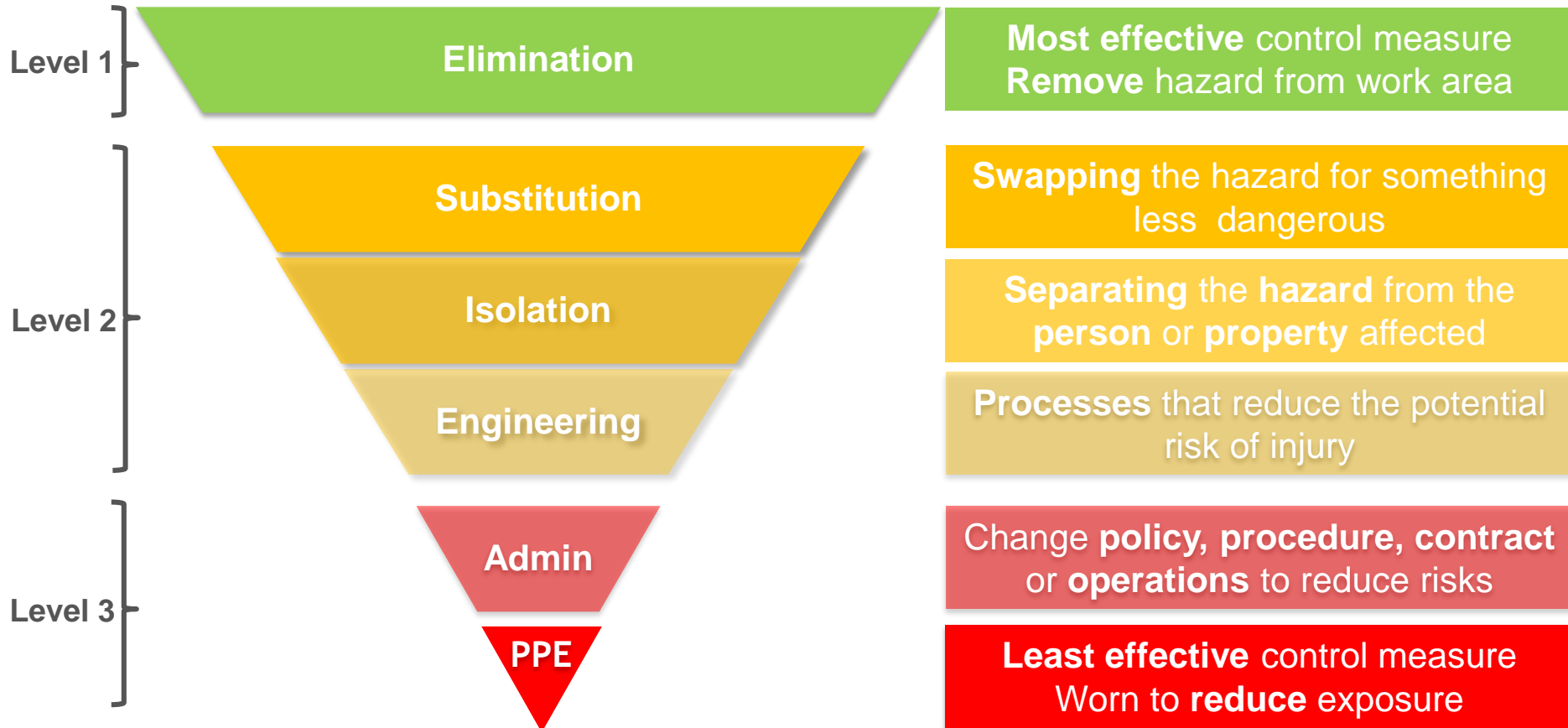
WHS Standards that Regulate Transport

Area	NHV Law or COR Standard	WHS Code of Practice
Traffic	<ul style="list-style-type: none"> • <u>Part Coverage</u> Loading / Unloading Exclusion Zone Guidelines 2010 	<ul style="list-style-type: none"> • <u>Total Coverage</u> Workplace Traffic Management Guidance Material • How to Manage Work Health and Safety Risks
Tiredness	<ul style="list-style-type: none"> • Prescriptive NHV Law Fatigue Offences (Excluding WA) 	<ul style="list-style-type: none"> • Guide for Managing the Risk of Fatigue at Work • Fatigue management – a Worker's Guide • How to Manage Work Health and Safety Risks
Maintenance	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Managing Risks of Plant in the Workplace • How to Manage Work Health and Safety Risks

Risk Management Practices

Risk practices identify the Hazard and use the Hierarchy of Control methodology to create solutions to prevent the Hazard.

Compliance is ensuring that the forms are properly completed. Compliance does not guarantee that the Hazard will not occur.

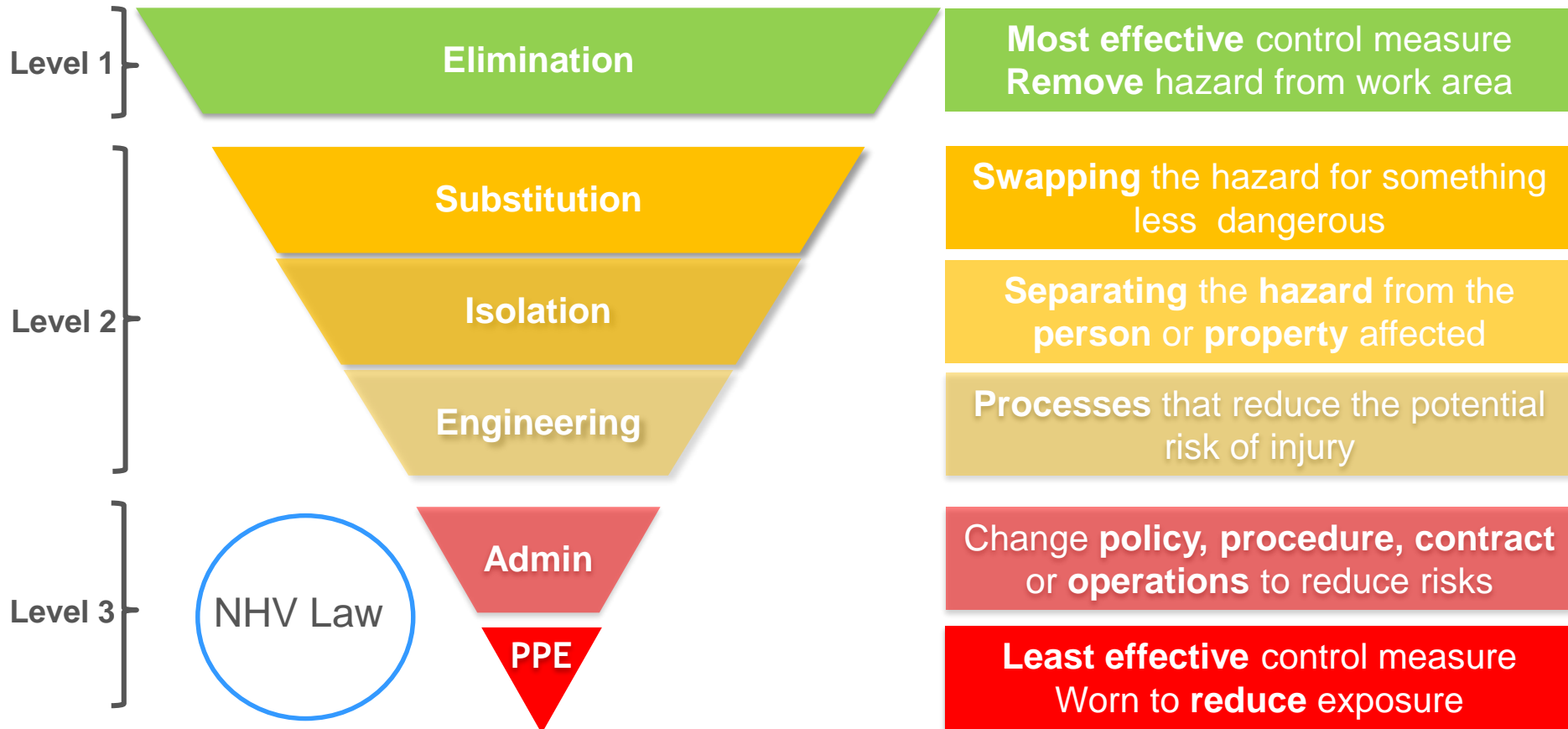


Module 2:

Managing v Compliance

Most of the compliance under the NHV Law is detailed and Administration orientated, where most PCBUs are acting at Level 1 and Level 2.

Most PCBUs are yet to update their HSE/SHE systems to include COR Hazards and/or NHV Law compliance.



Compliance What is it?

In the context of NHV Law it is a 'command and control' form of government intervention with:

- + Authoritative Rules – NHV Law and Regulations and NHVAS
- + Monitored by Government Agency – NHVR and the Police

Relies on making people comply or be punished or persuade people to comply. Public policy decisions and Rules that:

- + may make no sense and can be considered arbitrary
- + are not designed for business efficiency
- + create detailed requirements with no obvious gains
- + in many cases prevents selection of best practice
- + can conflict with other compliance requirements
- + do not adapt and change at the rate business requires



Risk What is it?

The chance of something happening that will have an impact on objectives and is usually discussed in terms of a **Hazard** with a **Likelihood** and **Consequence** under Australian Standards.

National WHS Law in each State - “**Code of Practice - How to Manage Work Health and Safety Risks**”, moved to a dual approach with the Hierarchy of Control superimposed on the **Likelihood** and **Consequence** Model.

Fatigue by Law v Tired for Safety

Compliance

Fatigue Hours

- + Doesn't prevent driving whilst tired or where likely to be impaired
- + Not reflective of different types of driving conditions
- + Not consistent with recommendations of a 15 minute break every 2 hours driving
- + Authoritative Rules – Arbitrary Compromise
- + Up to 40 minutes of driving lost per day for paper based rounding rules
- + EWD (Electronic Work Diary) will only make an imperfect system more accurate
- + EWD under current specification, will not pick up work that is not driving
- + AFM and BFM are just more detailed compliance systems

DUPLICATE NATIONAL DRIVER WORK DIARY DAILY SHEET WORK DIARY NO.

DRIVER IDENTIFICATION

Driver's Name: _____ Date: _____ Day of the Week: S M T W T F S

License No: _____ Number Plate: _____ Time Zone: State/Territory (colour code) ACT NSW NT QLD SA TAS VIC WA

Driver: Standard Standard Bus BFM AFM Exception hours (for this 24 hr period only)

Time of daily check (if required): _____

DETAILS OF ACTIVITIES FOR THIS DAY

Number Plate Changes and Comments (optional) (e.g. relay, advanced officer note): _____

Odometer Reading: _____

Name of Place of Work and Rest Change (e.g. via site, truck stop, suburb on road): _____

Two-up: _____

My Work: _____

My Rest: _____

Address: calculate total
Total Work: _____
Total Rest: _____

DRIVER SIGNATURE

To the best of my knowledge and belief the information I have recorded on this daily sheet is true and correct.

YOU MUST SIGN THIS SHEET BEFORE STARTING A NEW DAILY SHEET

TWO-UP DRIVER IDENTIFICATION

Two-up Driver's Name: _____ Two-up Driver's Licence No: _____ Two-up Driver: Standard BFM AFM Exception hours

Two-up Driver's Work Diary & Page No: _____ Two-up Driver's Licence issued: _____ Two-up Driver's Signature: _____

ACT NSW NT QLD SA TAS VIC WA

Risk

Tiredness

- + In cab systems to detect driver drowsiness and instigate preventative action
- + IVMS based solutions to detect driver behaviour and instigate preventative action
- + Directed to Hazard of tired driving
- + Protects drivers, the public and the assets





In looking at NHV Law Compliance and WHS Risk Management, it is clear that many “compliance” issues share the same “root cause” as a Hazard in Risk Management.

For example a poorly restrained load could fall off:

- + Before the load leaves a site
- + On the road
- + When the load arrives at the next site

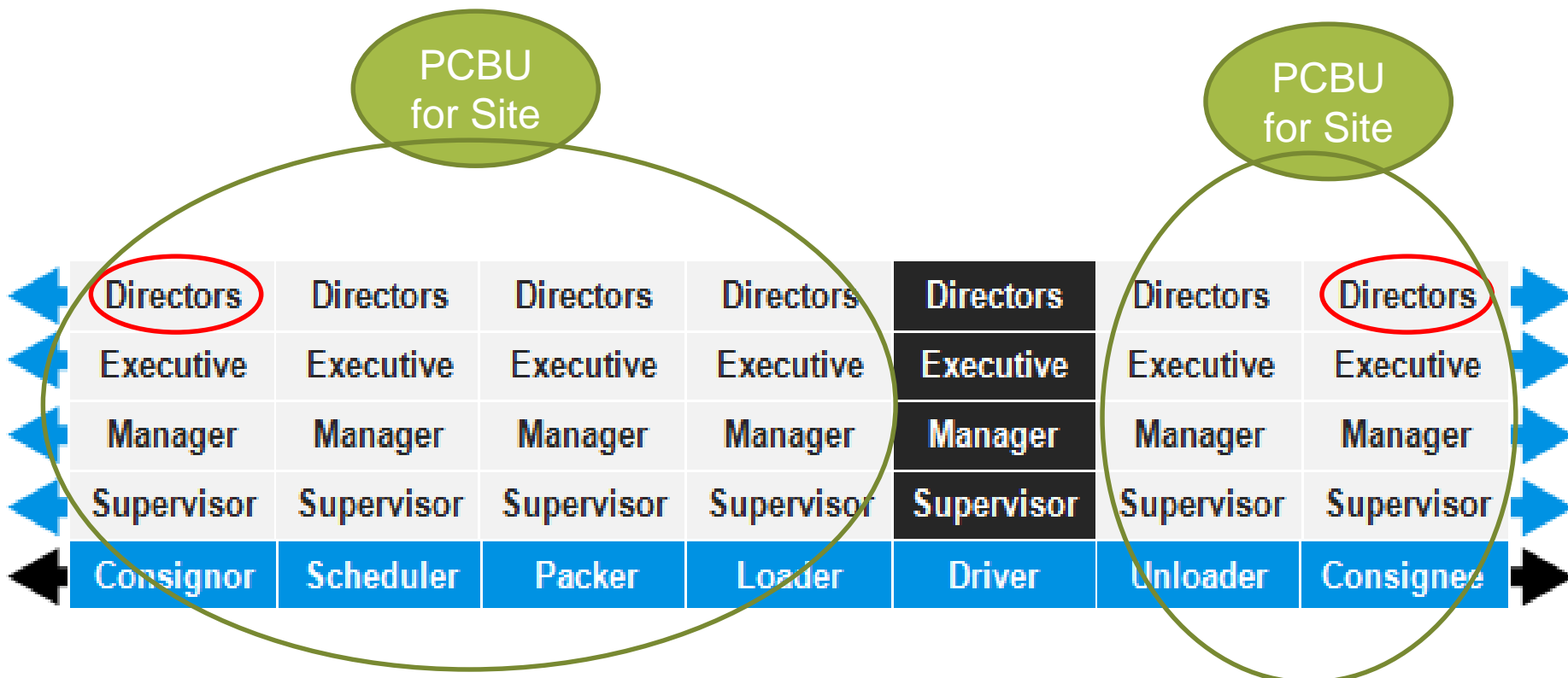
Only one of these is covered by NHV Law as it occurs “on the road”. All three should be of interest to WHS.

What	Person in Control
Loading Safely	Loading Site – PCBU
Unloading Safely	Unloading Site – PCBU
Load Restraint	Loading Site – PCBU (First Drop)
Load Mass	Loading Site – PCBU
Load Dimensions	Loading Site – PCBU
Tiredness	All Sites – PCBU
Driver Fatigue	NHV Law – COR Party
Asset Maintenance	All Sites and Vehicles – PCBU (incl. Transport Coy.)
Driver Work	NHV Law, Traffic Act (COR Party) and WHS (PCBUs)
Driver Speed	NHV Law, Traffic Act (COR Party) and WHS (PCBUs)

CoR Roles and Responsibilities

- + **COR ONLY** across supply chain
- + **WHS MORE THAN** employees on site
- + **BOTH APLY** to the management chain, Supply and Site

Extensions under WHS for PCBU at all touch points



One of the key elements to managing hazards and preventing compliance breaches is how to approach the perceived dilemma.

Some organisations have achieved this through internal rules that:

- + Create systems that manage HR, NHV Law, Hazards and Business needs
- + Have operational arrangements that meet HR, NHV Law and Business needs
- + Set thresholds that engage before NHV Law requirements
- + Provide an alert when the threshold is or is at risk of being approached
- + Allows for management intervention to prevent a non-conformance with the business rules
- + Avoid a breach of NHV Law

NB: This still requires the appropriate form filling and record keeping, however it ensures effective compliance at the operational level to prevent an actual breach of law, leaving only a technical breach (eg: form completion error).

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Consignor v Transport Operator



A NHV Law Code of Practice is a “compliance tool” for the NHVR, **it is not a management tool.**

NHVAS is a compliance tool to enable transport operators to access concessions for mass, fatigue and maintenance inspections , **it is not a management tool.**

A NHVAS Accreditation **is not** as the NHVR claims “.. evolved as a formal process for recognising operators who have robust safety and other management systems in place. It is also increasingly being used to show compliance with general duty requirements under road transport law.”



NHVAS failed everyone in the Cootes Incident:

- + Public
- + Driver
- + Businesses



NHV Law provides and extensive administrative burden on Transport Operators.

Consignor's need oversight of the Transport Hazards and the Compliance Processes of the Transport Operator.

Consignor's should be wary of becoming a “de facto” regulator.

A COR Management Plan provides oversight of a transporter engaged by a PCBU.

Peak hour traffic correlates with:

- + Higher number of vehicles on the road
- + Greater number of incidents per hour than other times of the day
- + Greater congestion, with more stop start traffic, especially at on/off ramps

All factors making it certain for a city peak hour collision involving a petrol tanker



Calder Highway Tanker– Case Example



Petrol Tankers are inherently dangerous and bring with them hazards of:

- + Multiple deaths (collision and fire)
- + Multiple injuries (collision and fire)
- + Escape of fuel into the environment and potential fire
- + Potential for immolation and damage to public infrastructure
- + A broader impact than conventional heavy vehicles

All factors having catastrophic consequences for petrol tanker use

Calder Highway Tanker– Case Example

We know from Cootes' petrol tanker crash in Mona Vale NSW, that petrol tankers in traffic can:

- + Be involved in a crash
- + Be ruptured and leak petrol
- + Can catch fire
- + Kill people

This incident was:

- + Near Miss
- + Highly Likely Hazard
- + Catastrophic Consequences

This requires work adjustment :

- + Eliminate petrol tanker movements in core peak hour



Calder Highway Tanker– Case Example



NHV Law Breach

- + None

WHS Breach?

- + Scheduling of delivery
- + Scheduling of driver

PCBU?

- + Toll
- + Consignor
- + Consignee

Efficient??

- + Peak hour delays
- + NHV Law fatigue hours
- + Driver alertness

There are many other areas where the “Risk Management” philosophy applies:

- + **WHS** – Health and Safety Management Plan
- + **Environmental** – Environmental Management Plan
- + **Food** – Food Safety Plans or HCCAP

ALL businesses must operate to WHS standards and many incorporate other disciplines into their WHS Management Plan.

WHS Solutions, Systems , Tools, Governance and Oversight provide effective, efficient and integrated approach across operations for all disciplines. EG: HSE Management Plan – Health, Safety and Environment.

The NHV Law remains the odd one out.

Module 3:

RMS NSW – COR Management Plans

RMS NSW has direct and indirect roles in road management, development and maintenance throughout NSW.

RMS achieves this through:

- + Direct work undertaken by its employees and supervised contractors
- + Contracted work under a number of Standard terms and conditions
- + Funding of Local Governments to undertake road work





RMS NSW projects include:

- + New roads
- + New bridges
- + Upgrades of road and bridges
- + Maintenance of road and bridges
- + Engaging tow truck drivers to clear traffic obstructions

RMS NSW contracts involve transport tasks

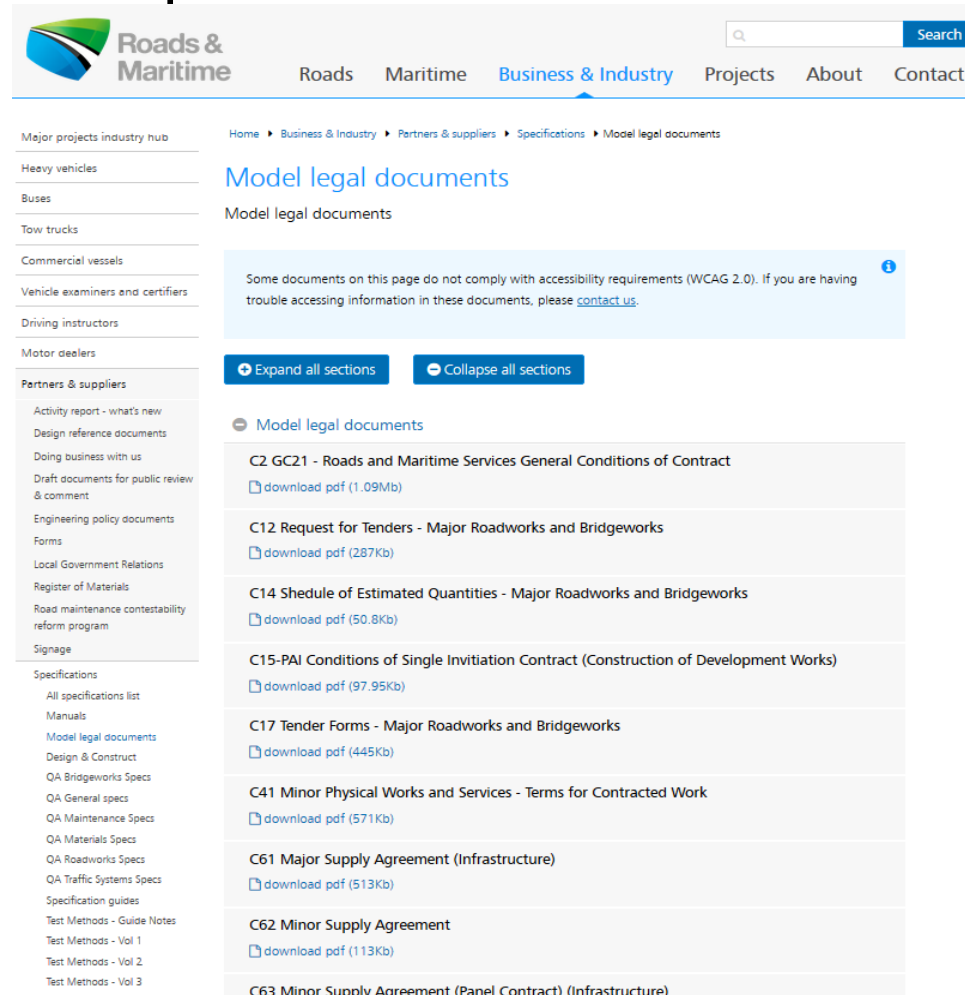
At some stage RMS NSW will want to see evidence of management of:

- + Work Health and Safety
- + Environment
- + Chain of Responsibility

RMS NSW expects contractors to demonstrate they can manage COR Hazards consistent with solutions for managing :

- + Work Health and Safety
- + Environment

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/specifications/model-legal-documents.html>



The screenshot shows the 'Roads & Maritime' website with a navigation menu including 'Roads', 'Maritime', 'Business & Industry', 'Projects', 'About', and 'Contact'. The 'Business & Industry' section is active, displaying a breadcrumb trail: 'Home > Business & Industry > Partners & suppliers > Specifications > Model legal documents'. The main content area is titled 'Model legal documents' and contains a notice about accessibility requirements (WCAG 2.0). Below the notice are buttons to 'Expand all sections' and 'Collapse all sections'. A list of documents is shown, each with a download icon and file size:

- C2 GC21 - Roads and Maritime Services General Conditions of Contract (1.09Mb)
- C12 Request for Tenders - Major Roadworks and Bridgeworks (287Kb)
- C14 Schedule of Estimated Quantities - Major Roadworks and Bridgeworks (50.8Kb)
- C15-PAI Conditions of Single Invitation Contract (Construction of Development Works) (97.95Kb)
- C17 Tender Forms - Major Roadworks and Bridgeworks (445Kb)
- C41 Minor Physical Works and Services - Terms for Contracted Work (571Kb)
- C61 Major Supply Agreement (Infrastructure) (513Kb)
- C62 Minor Supply Agreement (113Kb)
- C63 Minor Supply Agreement (Panel Contract) (Infrastructure)

RMS NSW “Design and Construct” Contract process C91

Documents:

- + Registration of Interest
- + Request for Tender
- + Project Deed

Expectations:

- + Identify COR issues that may be in the Tender Documents
- + Initial project COR risk assessment identifying project specific risks
- + Relevant company policies and procedures relevant to identified risks
- + How the design process and project delivery approach will address chain of responsibility risks during construction, where relevant



RMS NSW “Design and Construct” Contract process GC21

ANNEXURE G2-C2/G – CHAIN OF RESPONSIBILITY MANAGEMENT PLAN AND REPORTING G1 COR MANAGEMENT PLAN

As a minimum, the COR Management Plan must address the following matters:

- (a) Hazard identification and risk analysis of CoR issues.
- (b) Reporting on near misses, accidents, incidents and infringements arising from COR issues within two working days of such events taking place and including corrective actions in monthly progress reports.
- (c) Orderly management of COR issues throughout the Contract and provision of evidence that the Contractor has met its legal CoR obligations.
- (d) Methods of managing interfaces with stakeholders, suppliers, subcontractors and other organisations related to COR.

RMS NSW “Design and Construct” Contract process GC21

RMS NSW “Design and Construct” Contract process GC21

ANNEXURE G2-C2/G – CHAIN OF RESPONSIBILITY MANAGEMENT PLAN AND REPORTING G1 CoR MANAGEMENT PLAN

As a minimum, the CoR Management Plan must address the following matters:

- (e) Methods of dealing with relevant regulators and Authorities related to CoR.
- (f) Methods of developing, implementing and reporting on safety metrics for CoR.
- (g) Organisation chart showing team structure and defining CoR responsibilities.
- (h) CoR related communication protocols.
- (i) Key personnel, description of their positions/qualifications and reporting lines, as related to CoR.
- (j) Resources management, including addressing shortage of skilled resources that are critical to management of CoR issues.

RMS NSW “Design and Construct” Contract process GC21

RMS NSW “Design and Construct” Contract process GC21

ANNEXURE G2-C2/G – CHAIN OF RESPONSIBILITY MANAGEMENT PLAN AND REPORTING

G2 CoR REPORTING

The monthly progress report must include the following CoR performance details:

Reporting required by the CoR Management Plan.

Reporting on your CoR metrics related to management of:

- (i) driver fatigue and speeding; and
- (ii) fleet maintenance.

Module 4:

Purchaser of Transport Services

Data is held by Transport Operator, Information is for Consignor / Consignee

Transport Operator

Detailed compliance data for NHV Law
Useful information on performance
Useful insight into Consignor's exposure to NHV Law
Actual knowledge of COR Hazards

Should be managing hazards and reporting out to owner the information that the Consignor requires.

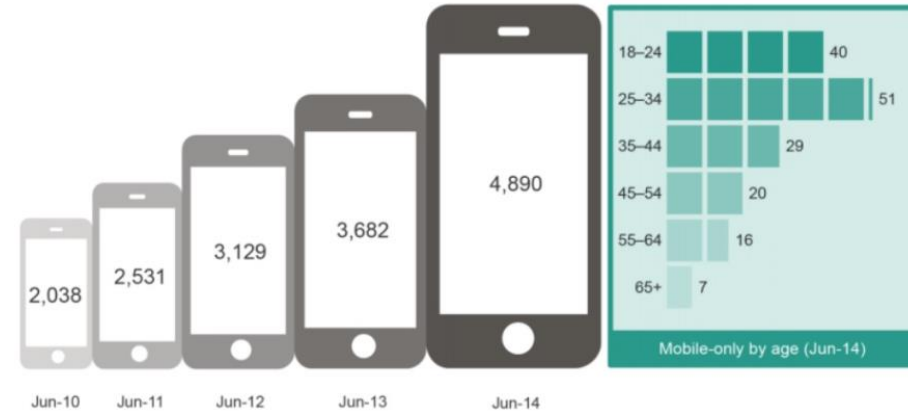
Consignor / Consignee

Information

- + How well are COR Hazards are being addressed by the Transport Operator?
- + Does the Transport Operator have appropriate systems and controls in place?
- + Are the Drivers complying with the Site requirements, including WHS where they overlap with NHV Law?
- + Relevant Metrics

Technology has fundamentally shifted:

- + Part of everyday life
- + Amount of Data
- + Quality and Reliability of the Data
- + Ability to process the Data and make it Useable Information



Society has fundamentally shifted:

- + Not acceptable activities has increased
- + Ability to monitor and report on acceptable activities has leapt forward
- + Enabling technology enables rethink, rework and efficiency gains
- + Can offer better outcomes for less money



Same Data can be used as:

NHV Law	COR Management
Breach	Route Optimisation
Enforcement	Driver Hours Optimisation
Fines	Fleet efficiency
Loss of Business	Increased profit
Exclusion from roads	Capacity for more customers
	Customer Service
	Brand Protection
	Customer Assurance

- + Alignment of Cultures
- + Mature approach to Hazards and Risk
- + Use of data to add value to both businesses
- + Proactive, rather than driven by Regulators



Module 4:

Conclusion

Beware Administrative Approach

Many Companies use the following administrative processes to manage risk:

- Legal Agreements

- Transfer responsibility (but cannot contract out of NHVL obligations)
- Separate insurance coverage (but cannot insure for criminal act)
- Place onus on person to comply
- Performance Standards
- Onus on other party to notify

- Paper Systems

- Policy, Procedure
- Tick and sign follow up
- ePaper based process
- Lodge and forget
- No

Beware Administrative Approach

Many Companies use the following administrative processes to manage risk:

- Operational
 - Allocate less optimal jobs
 - Pay lower rates, even though less chance of work and can be more 'risky' jobs
 - Bringing people on "ad hoc" and outside the "norm" of the business
- Compliance Systems
 - NHVAS administered by the NHVR under NHV Law
 - As a general solution
 - A solution beyond the nominated area
 - As a systems approach to hazards
 - Code of Practice under NHV Law

The more “paper” is relied upon, non-compliance / breach are more likely:

- + Hazard is not being managed – unmitigated hazard
- + Hazard is being managed below standard
- + For incident move from unlikely to almost certain
- + Consequence of incident move from minor to catastrophic

Reality is that the Hazard is not being managed or managed to best practice.

When catastrophic event occurs, the breadth and depth of the consequences are generally well above the capacity of the paper trail to cover off and the resources of the business.



2 Deaths 5 Injured

Fines \$500,000

Losses on IPO Float - \$ 143 Million

Reduced Market Capitalisation - \$ 500 Million

Written Down Good Will FY1314 - \$ 23 Million

Booked Expense FY1314 - \$ 11 Million

Loss of yearly contracts - \$ 95 Million

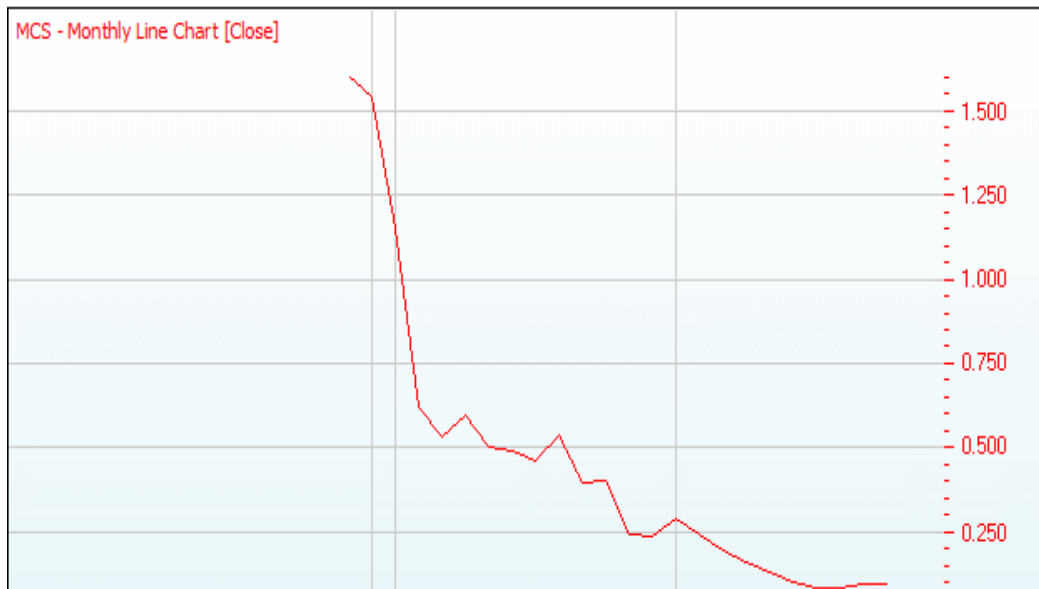


Cootes Transport Group
Moving Australia's Energy

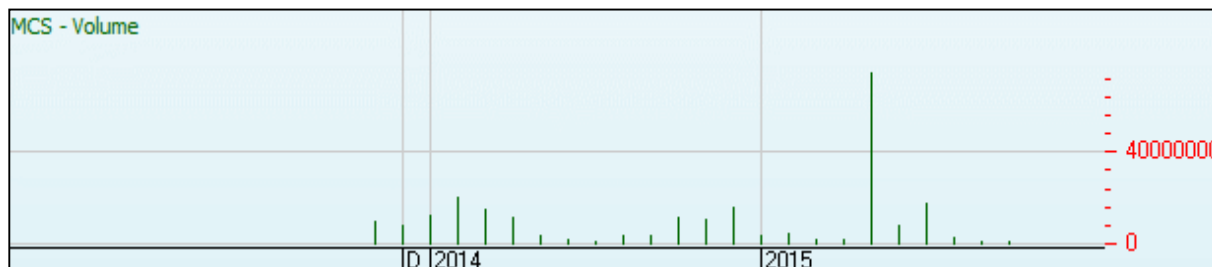
Administrative Solution and “Transfer”

MCS, MCALEESE ORD

The chart of monthly prices over 3 years for security MCS



Float Price	\$ 1.650
Listing Price	\$ 1.470
Price at Suspension	\$ 0.050



Catastrophic Events:

- Death
- Public Image
- Loss of Current Contracts
- Exclusion from Future Contracts
- Business Interruption



BP DUMPS COOTES FROM LIST OF CONTRACT CONTENDERS

7 March 2014

Cootes to accelerate restructure after missing on out national BP contract.

[More](#)



FED UP, GAY MOVES TO EXPEL COOTES TRANSPORT FROM NSW

7 March 2014

Cootes Transport may be banned from using NSW roads.

[More](#)



COOTES' WOES TO COST \$47.3M, AS DRIVERS FACE UNCERTAINTY

19 February 2014

McAleese prepares for financial pain as Cootes' woes deliver hit to parent company's bottom line

[More](#)



COOTES CRASH THE IMPETUS FOR NEW TANKER SAFETY CODE

22 November 2013

Cootes tanker crash continues to have ramifications, with news the ALC will develop a tanker-spec...

[More](#)



MELBOURNE HARDEST HIT IN FALLOUT FROM COOTES INCIDENT

10 October 2013

Caltex says it is adjusting operations to account for a disruption to fuel supply due to Cootes i...

[More](#)



COOTES IN FIRING LINE AS SAFETY AUDIT BROADENS

4 October 2013

Public heat on Cootes and owner McAleese ramps up following this week's deadly tanker fire

[More](#)






Subcontractor with your brand?

- Death
- Public Image
- Loss of Current Contracts
- Exclusion from Future Contracts
- Business Interruption

Usefulness of Contract?

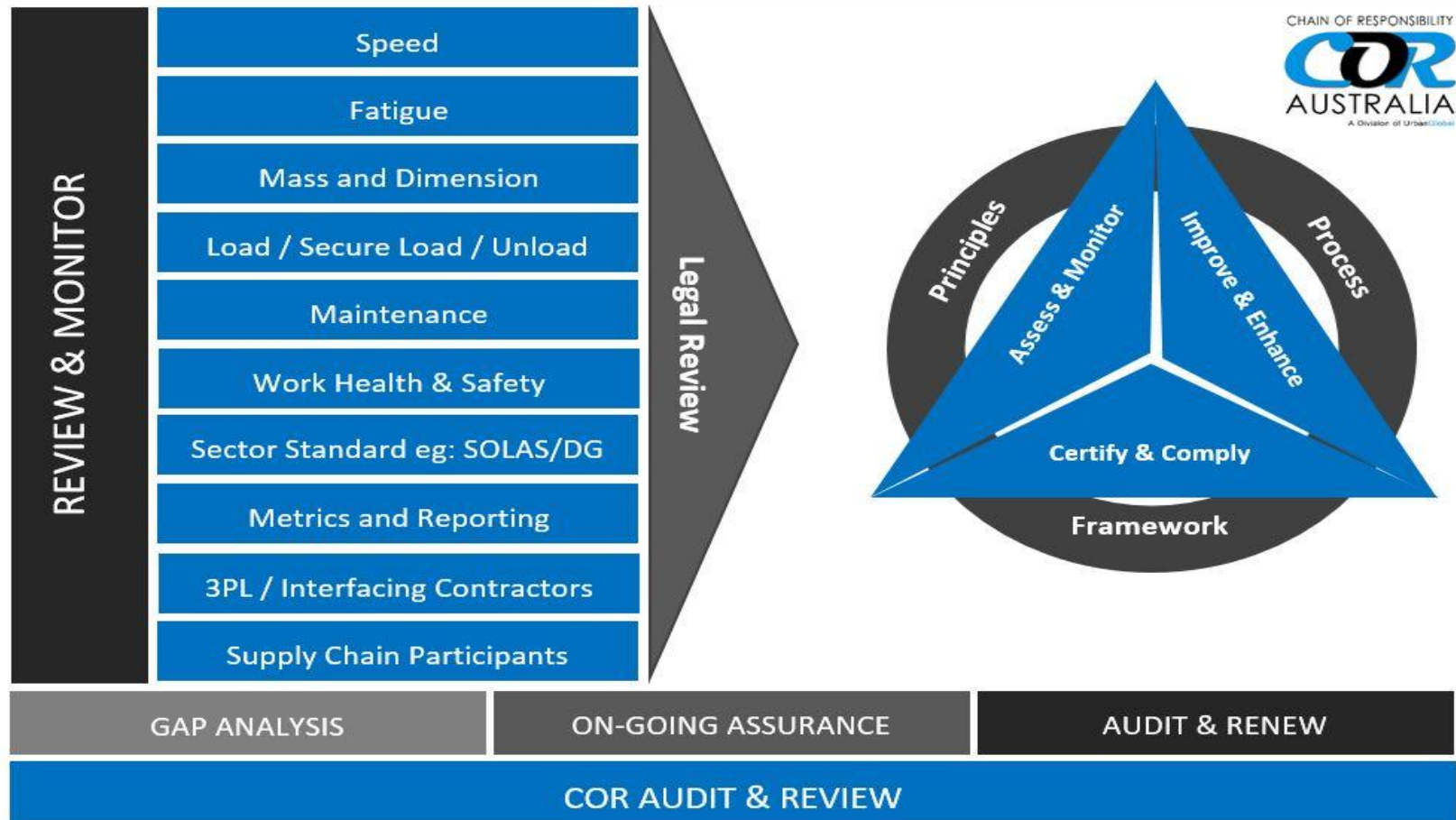
Usefulness of Insurance?

Still fully exposed to NHVL

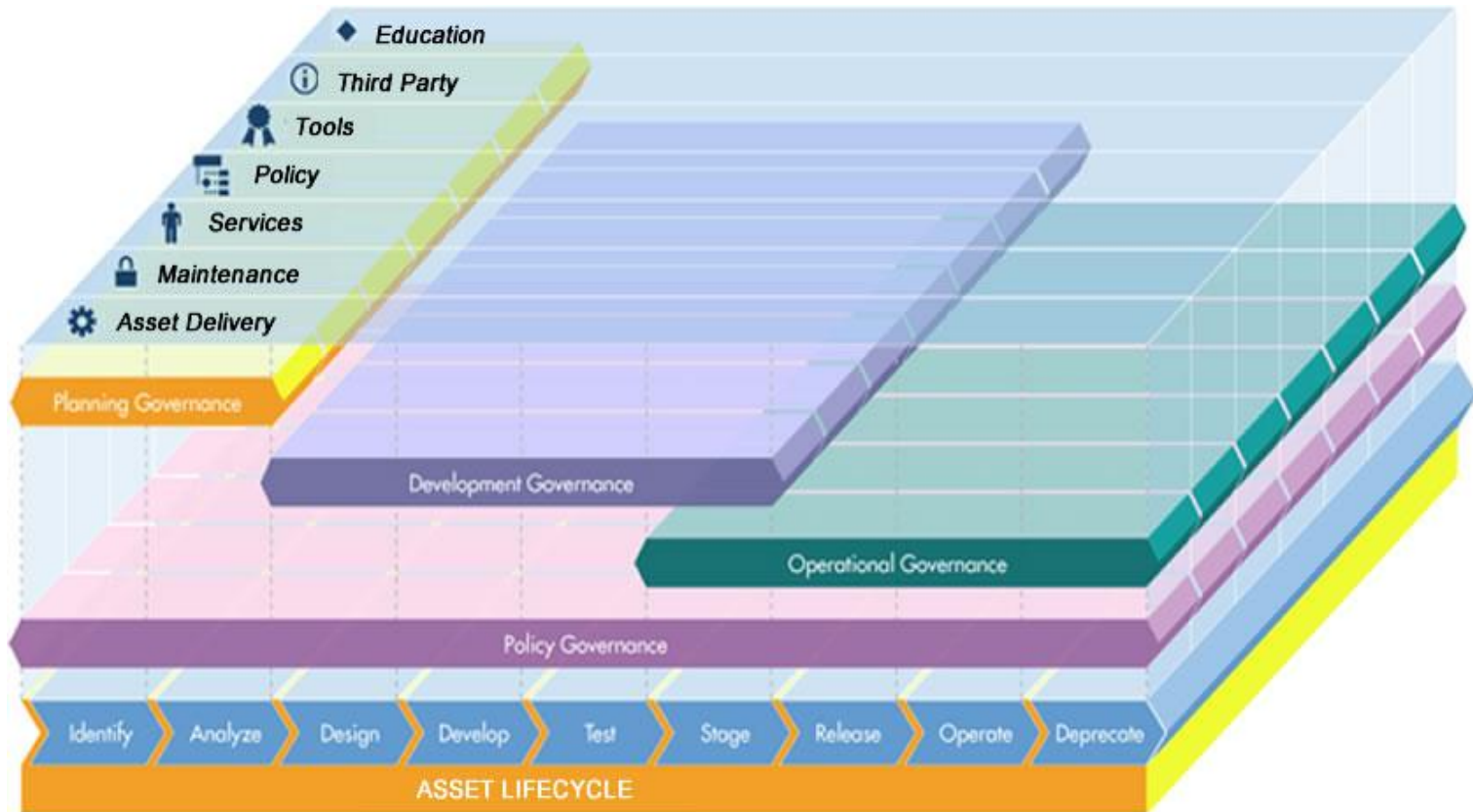
	<p>VICROADS GROUNDS COOTES VEHICLES 7 October 2013 Tanker firm's heavy vehicle accreditation in firing line as attention shifts to the Victorian saf... More</p>
	<p>COOTES FACING VICROADS CHARGES ALLEGING UNSAFE VEHICLES 23 June 2014 Legal action follows inspections last year and is latest blow to troubled McAleese subsidiary More</p>
	<p>NSW AUTHORITIES PROBE COOTES COMPLIANCE 3 October 2013 Tanker firm cooperating with inspections following the deadly and spectacular incident on Mona Va... More</p>
	<p>GAY UNLEASHES NEW BROADSIDE AT COOTES 7 February 2014 NSW Roads Minister pledges to use registration suspensions over vehicle defects More</p>
	<p>COOTES TRANSPORT ALLOWED TO REMAIN IN NSW 20 March 2014 Trucking firm avoids being taken off NSW roads after State Government accepts its plan to improve... More</p>

A Delivery and Sustainability Model

Organisations must have a process of identifying, assessing and responding to risks, and communicating the outcomes of these processes to the appropriate parties in a timely manner. This is what makes an organisation unique in its compliance reviews.



Have a Consistent Approach



Ensure Policy, Tools and Education across the Organisation, counter parties and third parties have consistent expectations and capacity to approach COR Hazards consistent with National WHS Law and deliver on NHV Law compliance.

Useful websites for information and guidance on Chain of Responsibility

National Heavy Vehicle Regulator

NHVR

<https://www.nhvr.gov.au/>

Chain of Responsibility Australia

COR

<http://www.coraustralia.com/>

Partners and suppliers

RMS NSW

<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/index.html#gsc.tab=0>



1. Customer Service extends to COR Management.
2. The Data must be turned into information.
3. By doing the wrong thing or doing no thing,
You expose everyone to danger.
4. Your Systems, Tools and Processes will serve your business and the
Consignor/Consignee.
5. Take a systematic approach to preventing problems. Improve your
business and your activities.

Conclusions Questions



Hazard

Truck not braking

Treatment

Maintain breaks

Action

Breaks not maintained

Incident

Driver died

Consequence

Manslaughter Charge

Sentence

Director 10 years jail