



● Barbaro Group

# “All Reasonable Steps”

Paul Sofield

# Mona Vale - Cootes Transport





# Objectives

After completing this session you will have a brief understanding of the 'All reasonable steps' defence.



# Offences under COR

- “Strict liability” offences
- Connected Person Liability (S29)
  - Includes a Consignor
- Consignee Liability (S31)
- Employers Liability (s111)
- Officers Liability (s108)



# Road Traffic (Vehicles) Act 2012

- Defence (s113)
  - Person did not know and could not reasonably have known that offence was committed...

**And**

- Person took **all reasonable steps** to prevent the commission of the offence

Or

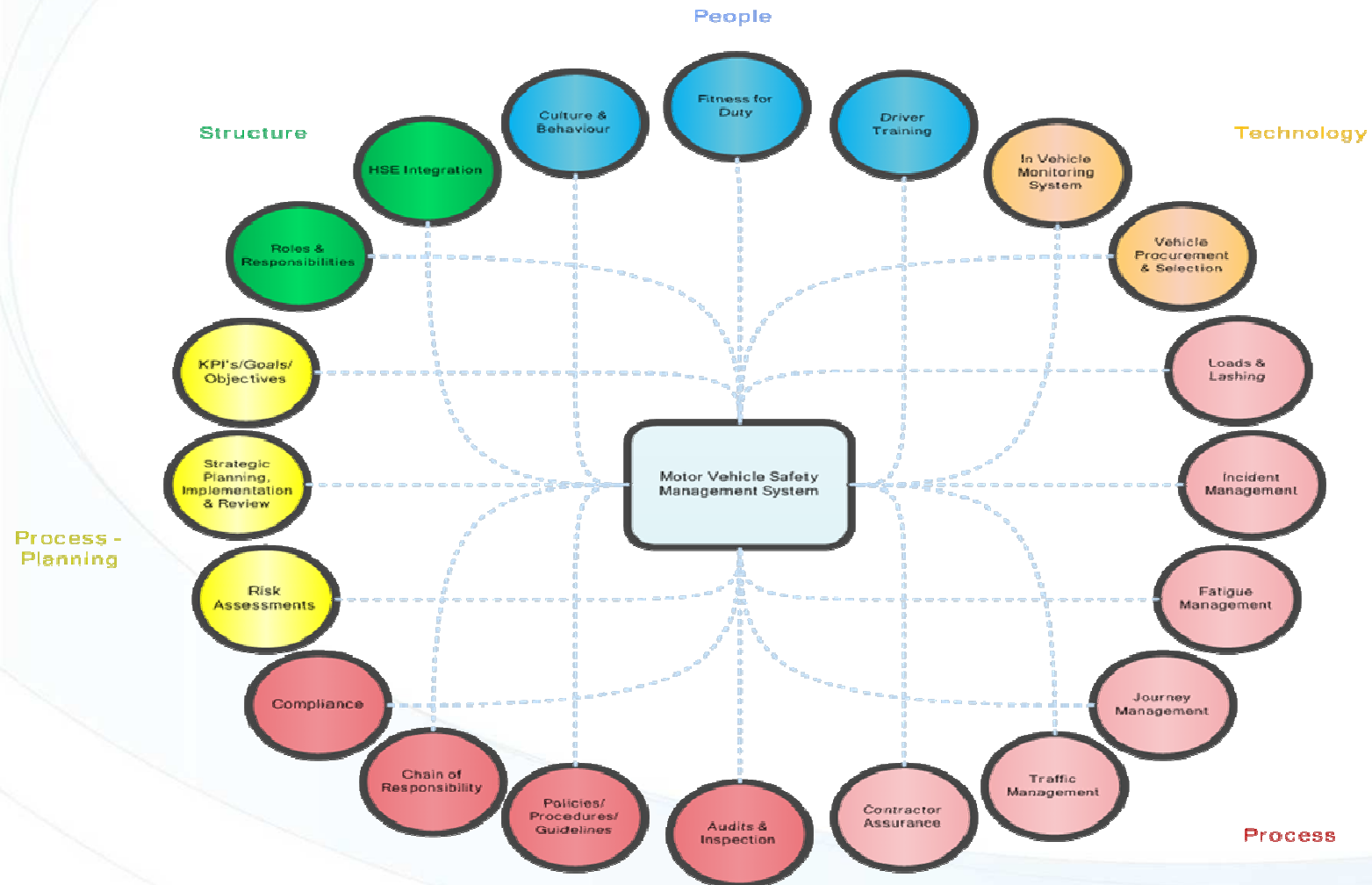
- There were **no reasonable steps available** that could have been taken to prevent the offence

# What are reasonable steps?

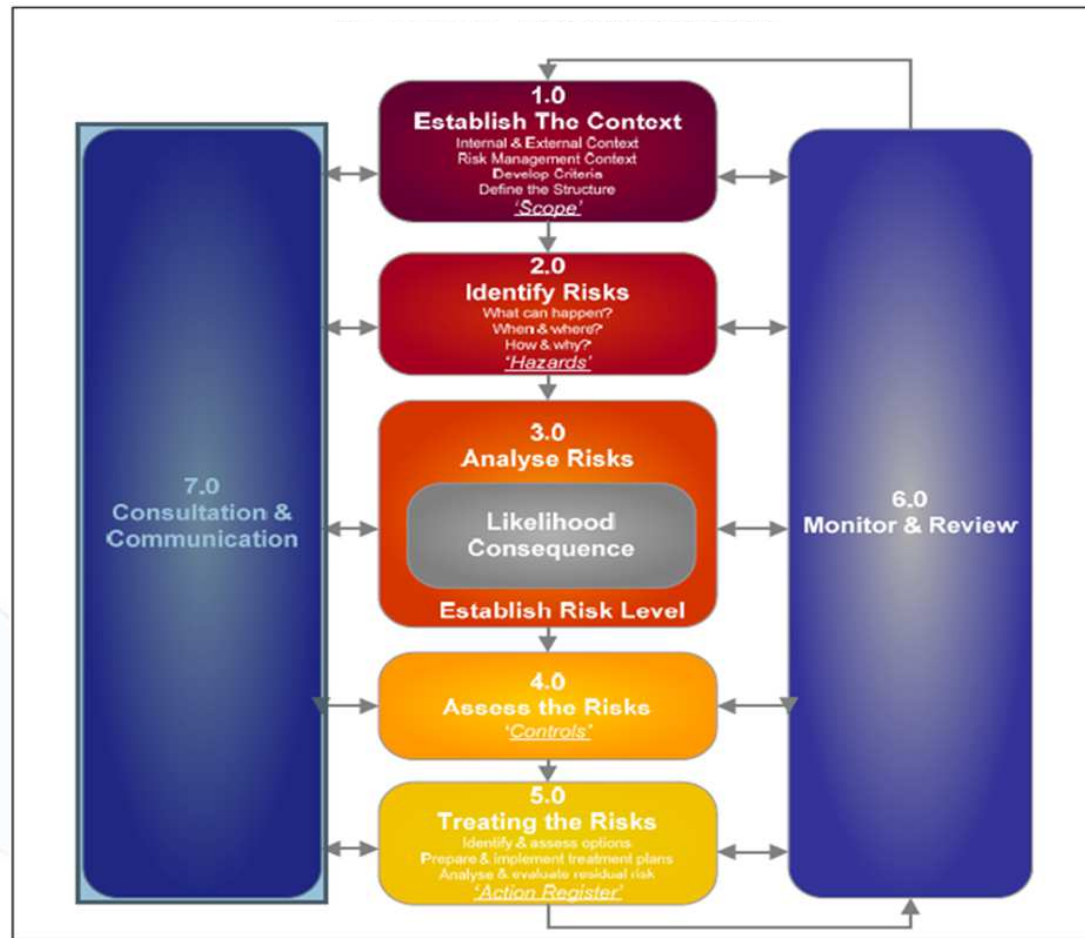
- Weigh & measure load
- Placement of load
- Supervision & control
- Commercial arrangements
- Information, instruction, training
- Maintenance
- Work systems
- Remedying breaches
- Expertise and experience



# Safety Management Systems



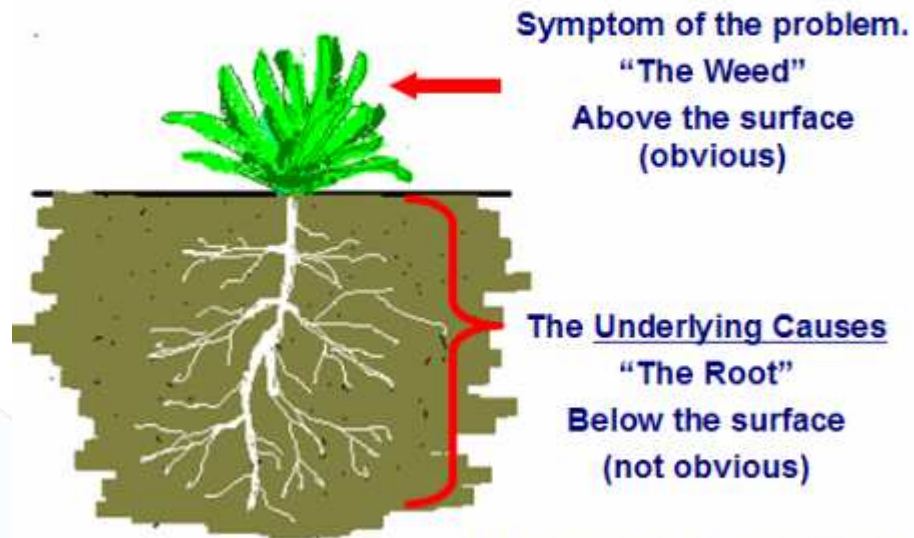
# Risk Assessments





# Incident Investigation Reporting

## Root Cause Analysis



The word root, in root cause analysis, refers to the underlying causes, not the one cause.

# Training



- *Pro-active Driver Training for Light / Heavy Vehicle and 4WD (TLIC1051A)*
- *Demonstrate Awareness of Chain of Responsibility (TLIF2092A)*
- *Implement Chain of Responsibility (TLIF3093A)*
- *Ensure Compliance with Chain of Responsibility (TLIF4094A)*
- *Loads and Lashing Training (TLID2004A)*

# Contractor Management

Table 2-1 Questionnaire for contractor HSE capability assessment

	Questionnaire items	Responses
<b>Section 1: Leadership and commitment</b>		
1.1 Commitment to HSE aspects through leadership	a) How are senior managers personally involved in HSE management for example objective-setting and monitoring?	
	b) Provide evidence of commitment at all levels of the organisation?	
	c) How do you promote a positive culture towards HSE matters?	
<b>Section 2: HSE policy and strategic objectives</b>		
2.1 HSE policy documents	a) Does your company have an HSE policy document? If the answer is YES please attach a copy.	
	b) Who has overall and final responsibility for HSE in your organisation?	
	c) Who is the most senior person in the organisation responsible for this policy being carried out at the premises and on site where his employees are working? Provide name and title.	
	d) Itemise the methods by which you have drawn your policy statements to the attention of all your employees?	
	e) What are your arrangements for advising employees of changes in the policy?	
2.2 HSE contract strategic objectives	a) Does your company have strategic HSE objectives? If the answer is YES please attach a copy.	
	b) Itemise the methods by which you have communicated your strategic HSE objectives to the attention of all your employees?	
<b>Section 3: Organisation, responsibilities, resources, standards and documentation</b>		
3.1 Organisational structure for HSE management	a) How is your organisation structured to manage and communicate HSE effectively?	
	b) Do HSE meetings promote HSE awareness?	
	c) Do client and contractor meet regularly to discuss and action any interface situations?	
	d) What provision does your company make for HSE communication meetings? Please provide an organisation chart	
3.2 HSE training of	a) Have the managers and supervisors at all levels who will plan, monitor, oversee and carry out the work received formal HSE training in their responsibilities with respect to conducting work to HSE requirements?	

- Safety Mgt System
- Roles & Responsibilities
- Risk Assessments
- Safe Work Procedures
  - Mass / Dimensions
  - Packing
  - Loading plans
  - Lashing procedures
- Audit & Verification

# Experience and Qualifications



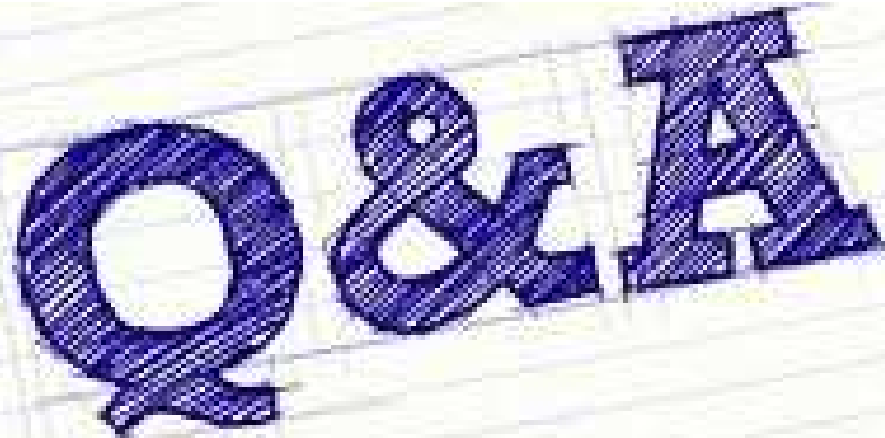
## Case Example – What's not Reasonable

- ***Western Freight Management v Maritime Services***
  - WFM collected goods from Minova Australia
  - Driver instructed fork driver to configure load
  - Driver did not observe loading – was required to stay in 'driver safety zone' during loading
  - Driver did not check load – stated he relied on weights on consignment note and pallet stickers
  - Discrepancy existed in the weights provided
  - WFM charged with a weight breach

# Inspector Mansell v Daly Smith

Judge Staunton:

*'Due diligence is not met by merely hoping others would or could do what they were told... but ensuring they have the skills to execute the job and then ensuring compliance with that in accordance with the safe standards established'.*

The letters 'Q&A' are drawn in a thick, blue, textured, hand-drawn style on a piece of lined paper. The 'Q' is a simple circle with a tail, the ampersand is a standard symbol, and the 'A' is a simple triangle with a horizontal bar. The paper has horizontal blue lines and a vertical red margin line on the left.

Q&A

You have

Questions

We have

Answers