SAFE SYSTEMS

Chain of Responsibility in Tasmanian Transport Chains

TASMANIAN TRANSPORT ASSOCIATION

A report on the project conducted by the Tasmanian Transport Association, funded by the National Heavy Vehicle Regulator's Heavy Vehicle Safety Initiative Program, with the support of the Federal Government, to raise awareness of and acceptance for CoR provisions under the Heavy Vehicle National Law.

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Conducted by the Tasmanian Transport Association, November 2018 – January 2020

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Project Officers

- Kara Bonney
- Michelle Harwood

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Project summary

Objective

To raise awareness of and acceptance for CoR provisions under the Heavy Vehicle National Law.

The HVSI

The Heavy Vehicle Safety Initiative (HVSI) program funds initiatives that will deliver safety benefits for the heavy vehicle industry and other road users. It is administered by the National Heavy Vehicle Regulator on behalf of the Commonwealth Government. This project has been supported with funding through the HVSI and industry contribution.

Framework for Activities

Collaborate with three transport operators in Tasmania and other parties in the chain of responsibility (CoR) supply chain, to identify hazards, conduct risk assessments and propose solutions in accordance with the framework provided in the Master Registered Industry Code of Practice, and disseminate the findings from the Project to industry.

Key Activities

This project was conducted by two TTA project officers; experienced WHS and Industry Accreditation / Quality Systems practitioner Kara Bonney, and TTA Executive Director Michelle Harwood.

These project officers worked with participating businesses to:

- Benchmark current awareness and responses to CoR provisions
- Identify and document the transport activities of the business
- Identify and document indicative and typical transport chains applicable to the business (it was not possible to document every transport chain for every business given the complexity of the transport activities of the participating businesses)
- Identify CoR parties in relation to documented transport activities and CoR chains
- Identify and evaluate business systems and processes used within the business, their application to CoR and their overall purpose, integration, acceptance and practicality within the business
- Examine the Transport Industry Master Code to understand commonly appreciated problems and responses with CoR risks
- Consolidate current practices and systems to a single risk register and risk assessment model for application across the business, referencing the Transport Industry Master Code
- Identify and plan CoR awareness opportunities for parties within the chain where the operator has control and influence
- Examine and update (or prepare to formalise) contractor / sub-contractor arrangements in the context of CoR where these apply
- Enable and support engagement with other CoR parties in the interest of establishing a collaborative approach where other parties have control and influence over the safety of the transport task

Outcomes

Through this project, the participating businesses have been supported to:

- Clarify and document the Transport Activities of their business
- Clarify and document business practices
- Consolidate and integrate discrete, and at times, inconsistent and incohesive processes, to a broader Business Practices system
- Access and apply tools and model processes available through a range of industry sources including publicly available materials (eg NHVAS and NHVR resources, the Master Code) and proprietary / business materials (eg TruckSafe, NTI CoR Health Checks and services)
- Establish a risk register and risk assessment system that supports integration of WHS and CoR risks and is integral to an overall business management system
- Develop and implement resources to advance business goals of achieving or maintaining relevant transport industry accreditations.

Outputs

- Case Study Reports relating to each of the participating businesses
- A model CoR Engagement Strategy and associated examples to support a Transport Operator to initiate communications with external CoR Parties
- CoR Party Checklist, Summary of Risk Types and Suggested Controls for Parties in the Transport Chain of Responsibility (collated and summarised from NHVR documents and the Transport Industry Master Code of Practice)
- A customised risk register template pre-populated with risk types and identified controls from the Transport Industry Master Code of Practice.

Broader Industry Application

The findings, outcomes and resources of this project have application for Transport Operators across industry.

TTA has promoted the approved case studies and model materials to industry through -

- Publication on the TTA website
- Awareness information through the TTA e-Newsletter Transport Matters
- Communication with other industry associations
- Distribution and discussion at an industry forum in November 2020.

TTA will continue to provide members and industry with support to implement the materials on an individual business basis.

Key Findings

Internal First

This project identified that transport operators need to confirm their transport activities and business practices, to understand both their CoR and WHS obligations before they are in the best position to engage on these matters with parties external to their business.

The transport businesses in this project with strong internal systems for WHS and CoR had established relationships with external parties and were already communicating about CoR and WHS shared responsibilities and controls. Without a mature and normalised internal system, transport businesses do not have a clear framework to proactively engage with external supply chain parties to explore how WHS and CoR can be controlled through a shared responsibility model.

This is compounded by businesses adopting a range of systems based on templates from different providers – eg, WHS systems, regulatory accreditation systems, and customer or product driven systems.

This project highlighted that business practices, including the systems, procedures and all associated forms, should be integrated and built from within the business, to reflect the objectives and operation of that business, rather than be assembled from a collage of sources, often driven by external accreditation or compliance demands.

Barriers to engagement with CoR Parties

Even with well-developed and documented internal business practices, planning and initiating a collaborative response to address areas of shared responsibility in CoR with external parties is complex and has many barriers.

Although proactive, two-way communication between all parties to the CoR is repeatedly identified and recognised as a crucial tool in advancing shared responsibility and control of risk, in practice there is a reluctance inherent to parties of separate entities to engage on these matters.

There are many 'reasons' for this which include:

1. avoiding potential conflict with another (external) party; *transport operators absorbing issues arising from actions or inactions of other (external) parties*
2. the view that the Transport operator is the business responsible for transport activities and should be the expert and solve all associated problems: *transport happens outside of the other entity's operations – external entities don't really believe they are part of the issue or share responsibility for the transport activity*
3. ongoing focus of HVNL enforcement on drivers and transport operators: *there is little information or confirmation that other (external) parties face regulatory action under CoR provisions*
4. complacency: *everything has gone all right up until now*
5. concern about loss of flexibility: *formal agreements lock us all into something that we don't want to be locked into and set expectations for the future that might not be what we want, will be onerous to maintain*
6. perception of over-reach: *concern that it is not the transport operator's responsibility to educate everyone else, but rather that is the job of the NHVR.*

Good practice and communication have practical benefits

The project identified that developing and implementing strong business systems is the starting point for effective communication with all CoR Parties.

Once systems are developed, the transport business can identify gaps and take confidence in the controls that are in place.

The Master Code provides a key resource for this.

Communication and consultation need to be structured with internal and external CoR Parties and normalised within business activities.

There are productivity benefits to be realised through communication with external CoR parties.

It takes time and commitment

Documenting business practices and developing business systems, including identifying CoR risks and controls appropriate to the nature of the transport activities and the business, takes considerable time.

This project was conducted over a 15-month period and during this time, activities were concentrated on documenting business practices within the framework of Chain of Responsibility, and the broader context of the culture and operations of the businesses involved. The project activities will continue, particularly with smaller businesses where considerable effort was committed to evaluating business activities and documenting systems to manage business risk.

In two of the participating businesses, new staff with key responsibilities for safety and business practices commenced during the time of the project. This highlighted the need for continuity of activities and having a well embedded set of business practices which are documented and communicated.

The systems and practices of the businesses involved in this project continue to evolve and will be refined as they are implemented, consulted and reviewed.

Background and context

The Tasmanian Transport Association

The Tasmanian Transport Association is the peak body representing the interests of the transport industry in Tasmania. The TTA was established in 1960 and provides advice, representation and support. Members of the TTA include representatives of road transport, rail, shipping, ports, warehousing and storage, and livestock sectors of the transport industry. TTA membership further extends to businesses and agencies providing services to industry members.

TTA provides representation, assistance and advice and works with members, Government and other industry associations and bodies, to create conditions that support a safe, sustainable and productive transport industry in Tasmania.

In 2018, TTA hosted an industry forum on Chain of Responsibility. This included an overview of changes to the Heavy Vehicle National Law and resources available to support industry – specifically NHVR Safety Management System resources, National Transport Insurance resources and the development of a Transport Industry Master Code. This forum, and TTA's regular member engagement, identified concerns within industry about the practical application of the CoR provisions under the Heavy Vehicle National Law.

Chain of Responsibility – strengthened provisions under HVNL in 2018

Chain of Responsibility, the concept of shared responsibility for safety across the parties to a transport chain, has been a feature of transport regulation for many years. The establishment of the Heavy Vehicle National Law and Regulations in 2014 formalised this and specifically identified CoR parties.

Changes to the Chain of Responsibility provisions in the Heavy Vehicle National Law were introduced in October 2018. The changes were designed to better align CoR with WHS provisions. Significant to this, the changes removed the 'reasonable steps defence' and replaced this with the requirement to be proactive in identifying and managing risk; all parties are obliged to take proactive steps, so far as is reasonably practicable, to manage risks associated with the safety of the heavy vehicle transport task.

Transport Industry Master Code

In November 2018, the Transport Industry Master Code of Practice was released. The Master Code is a Registered Industry Code of Practice under the Heavy Vehicle National Law and represents the efforts of industry through the Australian Logistics Council and the Australian Trucking Association, to identify common safety risks associated with the Chain of Responsibility. The Mater Code provides practical assistance to all parties in the CoR and suggests controls to manage risk types, specific to each CoR party.

Adopting the Master Code is not compulsory, but it is one way for a CoR Party to take responsibility for the safety of transport activities.

"While complying with this Code will not afford a defence as such, the contents of the Code will be a way of admitting evidence of what is known about risks and controls and could be used by a court to determine what is reasonably practicable in the circumstances to which the Code relates".

The Master Code has been used as the basis for activities in this project, applied from the perspective of a Transport Operator.

Common Operator Concerns around CoR

Common concerns about CoR and the Heavy Vehicle National Law communicated to the TTA by transport operators included –

- How do I work out what level of control and influence we, or another CoR party has for safety of the transport task?
- How to I work out whether what my business has in place to control safety risks associated with CoR is enough? None of this has been tested properly and I can't get anyone to tell me if what I am doing is enough or if there is more that I can or should do. I can't get any benchmarks of what others are doing. It is a grey area and that's very uncomfortable when the penalties are significant, and these aspects have not been tested under the law.
- Do I need to write down everything that we do in our business to manage safety and CoR? Some of the things we do are normal parts of our business and are not written down anywhere.
- Who is a party under CoR in my transport operations? A driver is not a named party under CoR, but what if they also load and unload – do they then become a party under CoR, and what does that mean if there is an incident involving mass, dimension and loading? Are they held accountable as a driver, or are they a loader or unloader under CoR?
- In practical terms, how will CoR cause other industries and other businesses who don't see themselves as part of the transport industry, to be involved and have legal responsibility for safety of the transport task? How will these other parties become aware of their obligations and how will they be enforced?
- Why do I, as a transport operator, need to 'educate' everyone else about their responsibilities for the safety of the transport task? There is a risk that when I start to raise this and explain to customers that they also have legal obligations to do with the transport activity, they will find it too hard to deal with me and will go elsewhere.
- Do we need a new system in our business for CoR? How does this fit with our WHS system and processes? How does CoR fit with other industry accreditations like NHVAS Fatigue Management and Mass Management? Or TruckSafe? Or ISO Quality accreditation? Is this another set of policies and procedures that I need to write and have audited?
- The law allows NHVR as the regulator to come into my business any day, without there being any incidents or issues, and ask to see my systems for managing Chain of Responsibility. As the owner of the business, I can be fined if I don't have a system to manage these risks. What do I need to be able to show them?

This project was conceived to explore and respond to these and other questions and concerns that Transport operators had around Chain of Responsibility.

The project aimed to demonstrate how the resources available to industry, especially the Transport Industry Master Code, could provide support to operators, in the context of their transport activities and business practices.

Transport operators involved

Engaging Industry

TTA communicated the opportunity through industry networks and the TTA E-Newsletter: Transport Matters. A flyer developed for this purpose is attached (*attachment 1*). A further information sheet was provided with more information about the project (*attachment 2*).

Participating Businesses

Aim – What we intended

The TTA will select three transport operators to participate in the Project. For optimum exposure and capacity building cross-industry and cross-party, selection will be in accordance with the following considerations:

- Size transport operation: one small, one medium and one large transport operator.
- Scope of transport task engaged in the transport of goods consigned through more than one of the following sectors:
  - primary production
  - manufacturing
  - general freight
  - refrigerated freight
  - dangerous goods.

Application – What we found

TTA received expressions of interest from members and non-members of the Association. More businesses expressed interest in participating than the three that TTA was able to support under this project.

The participants in the project were selected to reflect diversity in transport operations, including size, nature of the transport task and industry sector. The participating businesses also demonstrate that operators vary in terms of complexity of business systems, in the context of the nature of their transport activities and business practices.

Not all businesses participating in this project were members of the TTA.

A profile of each of the businesses is provided following. More information about the work of this project in each business is set out in the Case Study for each business.

Business 1 – SRT Logistics

SRT Logistics is a family owned Tasmanian company with three depots in Tasmania and one in Victoria. A specialist provider of predominantly frozen and chilled transport and warehouse services to the wholesale and retail food industries, SRT Logistics is the leading refrigerated and dry grocery logistics provider servicing Tasmania and Victoria.

Through innovation, workforce development, strong systems and a keen insight to customer requirements, SRT Logistics has established the business over the past 30 years to become a leader in this field, from a refrigerated transport company to a complete supply chain management provider.

With more than 300 staff across the business, SRT Logistics is committed to strong programs for workforce development and provides regular training across all areas of the business, including in CoR specific areas.
SRT Logistics has an impeccable reputation with clients, built through flexibility and reliability. SRT Logistics understands their place in the supply chain and maintain a focus on working for their clients, not the other way around.

SRT Logistics holds external accreditations including TruckSafe and Logistics Supply Chain.

SRT Logistics has deliberately examined CoR provisions and integrated these within business systems, including communications with clients.

SRT Logistics was interested to take part in this project to benchmark their approach to CoR, identify areas for improvement and to further explore '*what reasonable looks like*" in the context of CoR.

Business 2 – Ryan Contracting

MD & TJ Ryan, through Ryan Contracting, operate an agricultural contracting and transport business, predominantly servicing off-farm cartage of agricultural produce, including poppies, carrots and potatoes.

This operation is seasonal however the business has diversified activities from this base to include container cartage from pack houses, general freight, bulk tipper, machinery cartage and other sub-contract work.

The operation commenced in 1997 with one truck and now encompasses 16 trucks, 40 trailers and specialized agricultural equipment.

Ryan Contracting employs 10 core drivers which extends to 18 drivers during seasonal peak times. All drivers are engaged direct as employees.

Operations are conducted from a modern office and fully equipped mechanical workshop with qualified staff in the NW of Tasmania.

Ryan Contracting operate a fleet of trucks and trailers which are deployed for a range of transport activities, including:

- agricultural produce transport (vegetables - carrots, onions, potatoes) within Tasmania, and north-bound produce to Melbourne and Sydney Markets
- general freight and container transport including under sub-contract arrangements
- bulk tipper
- contract and fee for service work through Tasmania and mainland states.

The Owners – MD & TJ Ryan, are actively engaged in the management of the business.

Ryan Contracting operates dedicated agricultural harvest equipment, prime movers, refrigerated trailers, tippers and specialised trailing equipment. Ryan Contracting is responsible for all service maintenance and repairs of vehicles. All equipment is maintained in accordance with Ryan Contracting's policy and procedures manual and references manufacturer's maintenance manuals.

Ryan Contracting operate with Mass Management Accreditation through the National Heavy Vehicle Accreditation Scheme.

At the beginning of this project, Ryan Contracting had documented systems, policies and procedures in place to control a range of risks within the transport operations of the business, however through the project the opportunity was identified to consolidate these within a single system.

Ryan Contracting was keen to participate in the project for several reasons, including to consolidate business systems and seeking clarity for "so far as is reasonably practicable" to manage CoR risks in the context of an integrated transport / primary production supply chain.

Business 3 – Streeflands Logistics Solutions

Streeflands Logistics Solutions is a family owned and operated logistics company based in Launceston, Northern Tasmania. Streeflands Logistics Solutions provide contract logistics throughout Tasmania, servicing the fast-moving consumer goods sector.

Streeflands Logistics Solutions is dedicated to quality of service with a team of motivated professionals committed to exceeding client's requirements and expectations. The business strives to be renowned for continuous commitment to improving services, providing a positive and safe workplace, and always works with up-to-date technologies and equipment.

Streeflands Logistics Solutions operates from a head office in Launceston. The fleet of vans and heavy vehicles also operates from bases throughout Tasmania.

The operation encompasses of trucks and vans. Streeflands employ 17 drivers and employs drivers direct as employees.

Operations are conducted under standard fatigue hours.

Streeflands operate a fleet of trucks which are deployed for a range of transport activities, including contract and fee for service work through Tasmania. The nature of transport activities for Streeflands Logistics Solutions is primarily routine; with drivers deployed on routine delivery runs for beverage, grocery and newspaper freight. These runs are essentially standard and are scheduled in conjunction with consignors with whom Streeflands Logistics Services has long term and mature relationships.

Streefland Logistics does not hold any external accreditations however at the time of this project had identified TruckSafe as a potential industry accreditation model.

Streefland Logistics Solutions were interested to participate in this project to understand how CoR was applied within their business operations and to support the business as it worked through the process of refining, consolidating and addressing opportunities for improvement in the business management system.

Project stages – aims, activities and outcomes

Benchmarking CoR

A benchmarking activity was conducted at the start of the project to establish information about the business, with a focus on the awareness and integration of CoR related business practices within transport activities.

Through this activity, information was gathered about:

- the general activities of the business
- transport tasks of the business
- accreditations held relating to transport
- physical assets of the business relating to transport
- self-assessment of business practices relating to control of CoR related risks
- whether the business had identified and documented supply chain parties
- whether the business had engaged with supply chain parties about CoR
- the business' use of a range of public and proprietary resources to support risk management.

The benchmarking activity identified that the businesses were at different stages in terms of a continuum of identifying how CoR provisions applied to their transport activities or business practices.

The benchmarking stage supported the project team to understand what the businesses expected to achieve through their participation in the project, which included:

- understanding what "reasonable" looks like
- understanding what we are expected to do under the law
- identifying gaps in our business practices for CoR and finding out what we can do to improve
- exploring how we are meant to share responsibility for safety with CoR parties who are outside of our business
- exploring CoR and our business to have some assurance through this project that what we are doing is right.

The questionnaire used to guide this activity is provided as *Attachment 3.*

Mapping the Chain

Aim – what we intended

The TTA will work with each of the transport operators from stage 1 to map the transport supply chain (CoR map) for that operation and identify each party in the chain.

Application – what we found

The concept of mapping the transport chain and identifying the relevant CoR Parties was conceived as a logical and relatively simple starting point for each of the Transport Operators participating in this project.

As expected, and planned, the three participating transport businesses each had very different operating models and very different transport activities.

None of the transport business involved in this project operated within a single regular defined transport chain; to the contrary – 1 transport business involved had at least 12 different 'regular' transport activities involving different consignors and consignees, and this is at a general level, without identifying the granular detail of each of the transport activities.

The Master Code provides guidance in this aspect and suggests (p27):

To understand the hazards and risks associated with your transport activities:

(a) describe the transport task – the transport of what goods (or passengers) using what type of heavy vehicle/s, where to/from, how often and so on. Different transport tasks will have different hazards and risks

(b) work out your role/s in the chain of responsibility. Different CoR parties will have different hazards and risks in how they influence and control the transport activity.

Completing these two preliminary steps will set the context for your risk assessment. For some duty holders this will be a simple process, for others it will be more complex depending on the size and nature of your transport activities.

TTA worked with each of the businesses to explore and document the range of transport activities of the business.

Examples of how transport activities are mapped are readily available to demonstrate supply chain models, with an underlying purpose to evaluate and monitor efficiency in supply chain processes. Transport Chain maps identifying CoR Parties are not readily available and through this stage of the project there were no examples of software or pictorial representations mapping transport chains related to Chain of Responsibility identified.

This stage, which involved senior managers from each of the businesses, resulted in a series of overviews and 'maps' setting out essentially a lineal model for specific transport tasks of the business.

As cautioned in the Master Code (p35):

"Supply chains can often be complex in nature and do not always follow a linear or traditional relationship. For example, a consignor may or may not also be a packer, loading manager, loader or unloader. Duty holders need to consider their roles and relationships with other parties in the supply chain, including differing consignment arrangements, when assessing and selecting the suggested controls in this Code, or develop other controls that are equally effective".

In practice, at different stages in the transport task, CoR roles are conducted by different parties. For example, in one chain, scheduling is influenced to a large extent by the Consignor and the schedules established are consistent through standard pick-up and delivery services routine for relevant days of the week. The Transport Operator allocates people and vehicles to these regular transport tasks.

In another example, drivers assume CoR roles for loading and unloading, at different stages of the transport activity. For example, the driver may not be the loader, but is the unloader for some goods.

We found that concepts of scale in mapping were critical to progress in this stage and advanced by establishing an overall / "global" scale representation of the transport activities, followed by more detailed maps at the "local" level to represent specific transport tasks.

The representation of these chains varies according to the nature of the transport activities – again, recognised in the Master Code. Transport chains and the mapping of these is clearly not a case of One Size Fits All; one way of mapping the chain may work for one but not another transport activity.

The extent of variation, integration with other industry functions, and complexity of operations of transport businesses was such that it was not possible within the scope of the project to map in detail the full range of transport tasks conducted; many of which are responsive to individual job requirements and contexts such as a one-off movement of goods or mixed freight and mixed consignor loads.

The emergence of online platforms for freight movement – where goods are listed for transport and operators tender for the work through the online freight marketplace – was identified during this stage. One of the participating businesses expressed concern about how the provisions of CoR could or would be extended to freight brokers listing freight for movement using this platform.

The mapping exercise identified that most of the CoR parties were internal to the transport businesses involved in the project.

Establish an Engagement Strategy

Aim – what we intended

Consistent with the Master Registered Industry Code of Practice (Master Code), the TTA will develop an engagement strategy for application to each party in the relevant transport supply chain. This engagement strategy will be a simple and practical document established for the purpose of the Project. It is expected that the engagement strategy will be refined through the Project and upon its completion, will reside with each party in the supply chain as a key part of their CoR policies and procedures.

Application – what we found

The Master Code, section 2.4.2, sets out some practical options to develop a culture of shared responsibility.

> Master Code (p19):
> *Examples of consultation, cooperation and coordination that encourage an integrated and consistent approach to safe transport activities include but are not limited to:*
> - *Communicating CoR Policies and procedures to other parties to support consistent understanding and application*
> - *Involving other parties in the supply chain in discussions about identified risks to support consistent awareness and control of the risk*
> - *Identifying safety and compliance synergies across the chain to create common solutions and strategies*
> - *Sharing information to positively impact the activities of other CoR parties, for example, safety information and incident reporting*
> - *alerting other CoR parties to CoR incidents and non-compliances and working together to review the effectiveness of any remedial actions implemented (observe, record and report)*
> - *alerting other CoR parties to practices that have negative impacts, are unsafe, or may breach the HVNL.*

The Master Code further suggests that CoR parties engage and consult with each other and to support this, recommends developing a stakeholder engagement plan; *"...that identifies the Who? What? Where? When? Why? and How? for basic information gathering and information sharing amongst CoR parties."*

A generic engagement strategy was developed, designed to be used as a way of communicating why the Transport Operator (who, as a business, themselves simultaneously performed other roles in the CoR) sought to engage with other CoR parties, the identity of the parties and how they could engage with them.

The initial strategy was very basic and following the main project activities, was re-structured and is presented now as *attachment 4*. This is designed for use as an internal planning document. This is supported by a CoR Checklist and Overview of Risk Types and Suggested Controls, developed with reference to the MasterCode and with a checklist drawn from the NHVR CoR Resources - *attachment 5*. This is designed for transport operators to use when communicating with CoR Parties. Finally, a sample engagement letter was designed to provide a template from which transport operators could develop their own communication with CoR parties, to set out the transport operator's commitment to a consultative and collaborative approach to CoR - *attachment 6.*

A common concern expressed by industry when advancing the need for a CoR engagement strategy is:

"why is it the transport operator's responsibility to educate everyone else? This should be the regulator's job. It puts the transport operator in the position of being seen as the regulator and dictating terms to the other party, when they are paying us to provide a transport service, not us dictating terms."

Transport is traditionally the "price taker", including accepting of terms and conditions set by the customer.

It is important for transport operators to consider the impact of not educating others, particularly those external to their business, about the transport activities of

the business. As an example, one participating business described a situation where a vehicle attended a site for loading, and the loading manager and loader had been provided with introductory CoR Awareness training. This training included their responsibility to not overload a vehicle and a basic awareness of axle and mass limits. The combination that was presented for loading was operating under mass management accreditation and could therefore be loaded to higher mass. The loader operator refused to load beyond regulated general mass limits. In this case, the operator did not achieve the productivity benefits associated with higher mass through mass management accreditation. In a CoR Engagement strategy, it was identified as important to communicate information about accreditations held by the operator and relevant mass limits applying to vehicles so that the loader could have confidence around the loading task.

Given that the Master Code suggests that supply chain partners deal with reputable operators with industry accreditations, it is important that the operator has a way of communicating their qualifications in terms of reputable operations. This can be through a summary about the business and how they take CoR and safety responsibilities seriously and how they do this, along with information about any relevant external accreditation.

Engage with Supply Chain Parties

Aim – what we intended

The TTA will utilise the engagement strategy developed in Stage 3 to work with other parties in the supply chain to identify points of control or influence on the transport task and corresponding areas of risk. The areas of control or influence will be documented and added to the supply chain CoR maps commenced in Stage 2 of the Project.

Application – what we found

All the businesses engaged in this project were committed to consulting, cooperating, and coordinating with other CoR parties to support safe and productive transport activities.

Most CoR roles were within the transport operator business, including responsibilities for transport operator, employer, loader, unloader, loading manager and scheduler. In some cases, the business was also a Prime Contractor.

CoR roles external to the businesses included Packer, Consignor and Consignee, and to a limited extent in one case, Prime Contractor.

All transport operators participating in this project were already engaged with others in the transport COR chain, with varying degrees of formality to the processes.

Highly formalised, documented and communicated examples of CoR integration included:

- Packing Guidelines
- Terms of Service
- Induction and Training systems
- CoR referenced in position descriptions.

Undocumented business practices related to CoR included:

- communication with loading managers re their influence and control
- integrated approach to MDL processes and practices for paddock loading guidelines with harvester operators.

Control and Influence

A party to the CoR is required to control risk to the safety of the transport activity so far as is reasonably practicable depending on the nature of their control and influence over the transport task.

Transport operators participating in this project had good capacity to assess risk and establish and implement control options for CoR roles and activities within their business.

The project identified limitations to the extent to which the transport business, performing various roles within the CoR including that of the Operator, Employer,

Scheduler, Loader, Unloader and Loading Manager, can qualify the control and influence of other external CoR parties.

The issues and barriers to this identified through this project include:

- Lack of access to an external CoR party's business systems
- Lack of knowledge of the detailed activities of the external CoR party in relation to the transport task
- Concern about 'over-reach' – a transport operator's role in the overall supply chain for a consignor / consignee, who engages the transport operator, is to provide the transport task. There is a broadly held view that the transport operator is engaged to perform the transport task competently, safely and efficiently and that problems with the transport task are problems for the operator and not of the party who has commissioned the transport activity. This view was shared to varying degrees by transport operators, who are the 'problem solvers' for this aspect of the supply chain – identifying their expertise in problem solving as a commercial advantage.

While it was considered an over-reach to propose a risk assessment for the activities of an external party, it was considered acceptable to provide information to an external CoR party about commonly understood potential controls that could be implemented, particularly when these were of practical support and had a clear impact on the transport activities of the transport operator. For example, asking loaders, unloaders and loading managers to communicate delays to drivers and the transport operator.

This opportunity varies considerably to reflect the specific transport activities of the business and their level of interaction with the other party, the role of the other party, the history and culture of communications, the maturity of relationships, and the maturity of the business systems of the other party.

Identify and Assess Safety Risk

Aim – what we intended

The TTA will work with the parties in the supply chain to assist in identifying hazards and undertake a risk assessment consistent with the framework in the Master Code. Each party will be assisted in developing a risk assessment based on their areas of control or influence on the transport chain, focussing on the CoR areas of fatigue, speeding, mass, dimension and loading, vehicle standards, and to priorities activities/measures to control the risks so far as is reasonably practicable.

Application – what we found

For the transport operators in this project, most CoR roles were conducted by the transport business. This provided ready access to the people performing those roles and the Transport Operator had capacity to effect systems and processes to control risks.

Identifying and managing safety risks in the CoR framework needed to start with the areas that the transport operators involved had control and influence over.

For that reason, the process to identify and assess risks was focussed in the first instance on those risks associated with CoR within the transport operator's business activities. This is in accordance with the Transport Master Code.

The starting point with each business was to review the systems and processes that were already in place to identify and manage risk to the business.

Through this process the following broad observations are made:

- there is a lack of confidence with risk assessment principles and practices generally
- within smaller operators, there were few formalised and documented, cohesive systems for WHS risk management
- all operators involved had multiple systems and processes, developed over time, to respond to the need for risk management in different aspects of the transport activities. In all cases there were multiple approaches to

identifying and managing risks to the business overall. WHS risks were identified, assessed and controls recorded though one process, with CoR risks subject to a different process
- in general, there is a culture of 'copying and pasting'; adopting a range of templates in response to different drivers of compliance or accreditation demands
- some systems were on paper only; not fully developed or implemented. These were developed with the best intentions but had not been consulted within the business and were not effective or practical. These systems at best provided a base model, but at worst were a distraction to productive and efficient business operations. This approach results in a 'tick and flick' culture within the business as employees using the forms know that they don't reflect the business but follow a process to complete them because that is the job requirement.

Risk Assessment

Transport businesses participating in this project were at different stages with the development and implementation of risk management systems.

In considering how to advance this stage of the project, the resources of the NHVR for Safety Management Systems were reviewed and information provided to the businesses where there was a gap in this area of business practices.

The risk register and worked examples from the NHVR, and those within the Master Code were referenced in this stage of the project and provide useful information.

Another model, with a basis in WHS practice and which provided a risk assessment and validation function using an excel spreadsheet, was identified in common use within the industry.

This spreadsheet model is commonly used across industries for the purpose of documenting identified WHS risks, assessing the severity of the risk through a risk assessment validation calculation, and providing space to document the controls and re-assess and re-rate the residual risk. The model is typical for WHS systems and had general acceptance within the businesses participating in this project.

To assist with identifying risk, the project team modified this industry common risk register and risk assessment model.

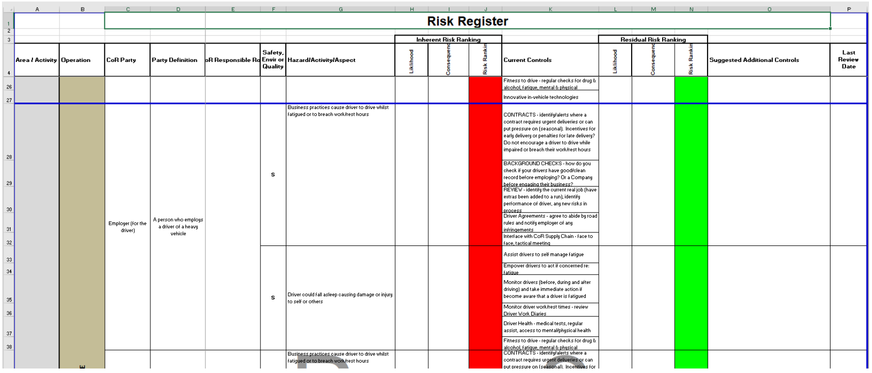
This model to identify and assess CoR risk was in place and used with one of the participating businesses. Formal risk assessments had been completed for Speed and Fatigue CoR areas. The process used was developed within the business for specific application to CoR risks and was not integrated with the WHS processes of the business.

To support transport operators to effectively and productively manage WHS and CoR risks, the generic WHS risk register and risk assessment templates were modified to encourage a single integrated process. To facilitate this, the template was pre-filled with all the risk types and suggested controls from the Transport Industry Master Code.

The 'template' risk register is structured and designed to identify:

- the area or activity of the business
- the operation / CoR area (fatigue, speed, mass, dimension and loading, and vehicle standards)
- the CoR Party (including Consignor, Scheduler, Operator, Employer, Consignee, Packer, Loading Manager, Loader, Unloader, with a description / definition of the party),
- space for the business to specify the duty holder with the CoR responsible role,
- whether the risk relates to safety, environment or quality,
- the hazard/activity/aspect,
- the inherent risk rating (likelihood, consequence and risk rating),
- current controls,
- residual risk rating and
- suggested additional controls.

This process was provided to the three businesses involved as a model / template – see attachment 6.



The template also provides examples of some common hazards and risk controls associated with transport activities that are not specific to Chain of Responsibility.

The template is designed for transport operators to use as a starting point in the process of identifying risk associated with their transport activities. Cells and rows with risk and controls not relevant to the transport activities of the business can be deleted. Additional information can be added as relevant.

Risk assessments for CoR areas already completed by businesses were added to this.

This provides the basis for each business to continue to document their business risk controls and highlight areas for continuous improvement.

Propose and implement practical solutions

Aim – what we intended

The TTA will work with the supply chain parties to assist in proposing solutions to control, eliminate or minimise the risks identified. The Grantee will assist transport operators during this stage of the Project to audit existing systems, policies, procedures and work instructions, to identify gaps and propose a forward strategy for addressing any gaps.

Application – what we found

The key to managing CoR risks for transport operators is a commitment to establishing and maintaining **business practices** that support a systematic approach to safety.

Master Code (p12):

Effective risk management starts with the commitment to safety from those who manage and control the transport activities. Proactive and positive safety cultures that focus on changing business practices have an immediate and direct impact on controlling risk and encourage continuous improvement will help a business to achieve better overall safety outcomes.

Business practices, of a person, means the person's practices in running a business associated with the use of a heavy vehicle on a road, including –

(a) the operating policies and procedures of the business; and
(b) the human resource and contract arrangements of the business and
(c) the arrangements for preventing and minimising public risks associated with the person's practices

This project identified barriers to effective business practices including a proliferation of systems in various folders = hard copy and electronic, sitting on shelves in offices, or in different electronic systems, with too many people with unclear responsibilities about what to do with them!

Reviewing and Consolidating Business Practices

All participating businesses had some documented business practices.

Some businesses had several systems documented for different purposes, primarily supporting external quality and regulatory accreditation schemes.

Opportunities for integration of business practices – particularly procedures and forms, were identified with every business involved in this project.

This stage of the project focussed strongly on supporting the businesses to identify a suitable system for expressing business practices in the context of the transport activities of the business and the scale and nature of the business.

Existing industry models which were available to the businesses and which were considered priority to advance the objectives of the business were used and customised for application. These included frameworks and templates provided through NHVAS Mass Management, Fatigue Management and TruckSafe.

An overview of the business systems used across the participating transport operators in provided next.

Overview of Business Systems across the Participating Transport Operators

- Business 1 - already held a range of industry accreditations and had well developed and integrated business systems including TruckSafe and Mass Management. Opportunities were identified to integrate some aspects of these systems, and for improvements to policies, procedures and forms used.

- Business 2 - already held Mass Management Accreditation and was exploring the option for TruckSafe Accreditation

- Business 3 - had business practices documented to respond to specific customer expectations. No formal external accreditation systems providing regulatory benefit were in place (eg Mass Management or Fatigue Management) and these are not considered to provide productivity benefits to the operator. The business was exploring the option for TruckSafe Accreditation

This stage of the project concentrated on working with the business owners and key staff across the CoR roles, to identify and examine documented business practices (policies, procedures, forms, templates, practices), identify opportunities for consolidation, and to identify gaps. From here, the project proposed practical solutions, providing policies, procedures and forms for use within the business.

Because all the businesses had progressed interactions with TruckSafe, resources available through that program were applied and modified to support the development of an integrated business system.

The businesses involved have the ongoing responsibility to regularly review and update the documented business practices developed through this project.

Prime Contractor – Transport Operator arrangements

Prime Contractor – Transport Operator / Sub Contractor arrangements were identified as area of CoR risk within two businesses.

The duties under the HVNL and CoR provisions cannot be delegated through contract arrangements. That is, the Prime Contractor (as an example party to CoR) cannot subcontract the work and the risk to another operator performing the transport activities on their part.

Sources of advice about how to document the CoR risks and how these are expressed in terms of formalised Prime Contractor – Contract arrangements are few.

The arrangements in both businesses were limited; both in the number of arrangements and the scope of the transport activities involved.

In both cases, there were no formal contracts or terms in place that were documented to address the CoR risks and expectations of each party to control and manage those risks.

There are several reasons advanced for there being no formalised arrangements in place. These include:

- the arrangements are ad hoc, respond to unplanned events and not ongoing
- the arrangements have evolved over time and have never presented any issues
- the transport operator follows the policies and procedures that are set by the prime contractor – all work is managed, scheduled and organised by the prime contractor and reporting is completed to the requirements of the prime contractor
- there is a degree of concern that formalising arrangements opens a 'pandora's box' in terms of who is responsible for aspects of the transport task and risks inherent to that
- formalising arrangements 'locks in' the parties and creates expectations of ongoing engagement
- for the transport operator, asking for a formalised arrangement is 'not the done thing'; and may jeopardise future engagements – 'when they are busy, they get us to do some of their work, it's only when they are busy and they ring us and say can you do xyz. We can do it or not, there's no formal arrangement and it has worked ok. If we start asking for a contract to do a job that is just a one off, then they will probably find someone else to do it".

This is consistent with a theme identified early in the project – that transport operators are there to solve problems; this is the professional domain of the transport operator and a competitive advantage / specialised skill set within operators. Raising issues like wanting a documented agreement, especially one

that sets out a degree of shared responsibility for the transport task, is viewed to be a barrier to doing business with that operator.

There is validity to this because CoR is not 'lived and breathed' and because there remain issues where CoR parties, particularly the consignor and consignee simply do not want to know about how a transport operator resources the problem, they just want their transport problem solved with no more engagement and to be left to focus on what they see as their business.

During this project, one transport business advanced their contactor arrangements and the model used was exemplary. The process or material used was not developed through this project and the model and formal agreement are commercial in confidence to that business. The pathway to the model involved a series of engagements with the potential sub-contractor pool, providing opportunities to be briefed on the nature of the transport activity, the business' policies and procedures, CoR risks and the arrangements under which the businesses would work together to effect the transport task in a safe and legal manner. This was backed up by a formal agreement which included reference to CoR duties and risk controls.

This model demonstrates a high degree of maturity in business practices and systems of the transport business and is supported by a well-resourced team of people within the business with the knowledge and focus to make this happen. This is commensurate with the scale of that business and is unlikely to be found in smaller operations.

Through this project we sought advice to identify standard terms and conditions for such contracts and agreements.

Gallagher – an insurance broker with a strong footprint in the transport industry and with a suite of resources available to operators, provided support to this aspect.

As a starting point, contracts can include

You acknowledge and agree that compliance with Chain of Responsibility laws and regulations is important and that you will:

- ensure that you are aware of and understand your obligations under Chain of Responsibility legislation and regulations
- ensure that your company and those representing your company comply with all Chain of Responsibility Laws and Regulations;
- ensure the safety of any transport activities that you conduct as part of your contract. This will include all aspects of chain of responsibility including for example loading/unloading, packing, scheduling, driving etc;
- comply with <<insert company name>> Chain of Responsibility practices and procedures and that if you do not, you will face disciplinary action, which could include the possible termination of your contract; and
- immediately report any accidents, 'near misses', incidents or hazards arising over the course of activities related to this contract.

It is important to ensure Chain of Responsibility laws and regulations are defined in such a contract or agreement, and to ensure that any CoR policy includes the Heavy Vehicle National Law and State-based road/transport Acts/Regulations (or any replacement or modification thereof). Contractors and sub-contractors should also share their policies around Chain of Responsibility and specific risk areas, eg Speed, Fatigue, Mass/Dimension and Loading, and Vehicle Standards.

The NHVR third party checklist is a resource that is freely available to transport operators and prime contractors and represents an excellent starting point in exploring the CoR risks and controls. This checklist was provided to the businesses participating in this project as a model for use and has been incorporated into the business practices / business manual developed with each of the businesses.

Internal Systems

This project identified strongly that transport operator businesses need to establish internal systems before they can effectively evaluate CoR obligations and engage with external parties.

Successes

Through this project, significant contribution was made to participating transport businesses to clarify how their business practices contributed to their safety duties including CoR. For two businesses, the process involved working together to develop a business system, with associated risk management models and controls. For those, the bulk of this project has concentrated on supporting them develop an integrated, functioning internal system, to understand their CoR role/s and risks as transport operators and to build confidence in what they are doing to manage risk through this lens.

For the third business, the contribution was made in terms of benchmarking, review and feedback for possible improvements to risk register and business forms advancing CoR.

Barriers

Development, documentation, implementation and review of business systems is an ongoing process and must respond to changing conditions.

This takes time and resources within the business and during this project, a barrier to the identification and implementation of risks and controls within businesses arose through significant changes in business personnel (including operations manager, scheduler, and administration staff), which limited progress with internal systems. As a positive, the development of a business system addressing business risks and controls has contributed to a stronger base to support engaging new staff and building a culture of safety.