

# UDIA Member briefing WHS Modernisation

Presented by Sarah Harrison  
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# Agenda

- Regulatory Change
- Regulatory Action
- Other jurisdictions

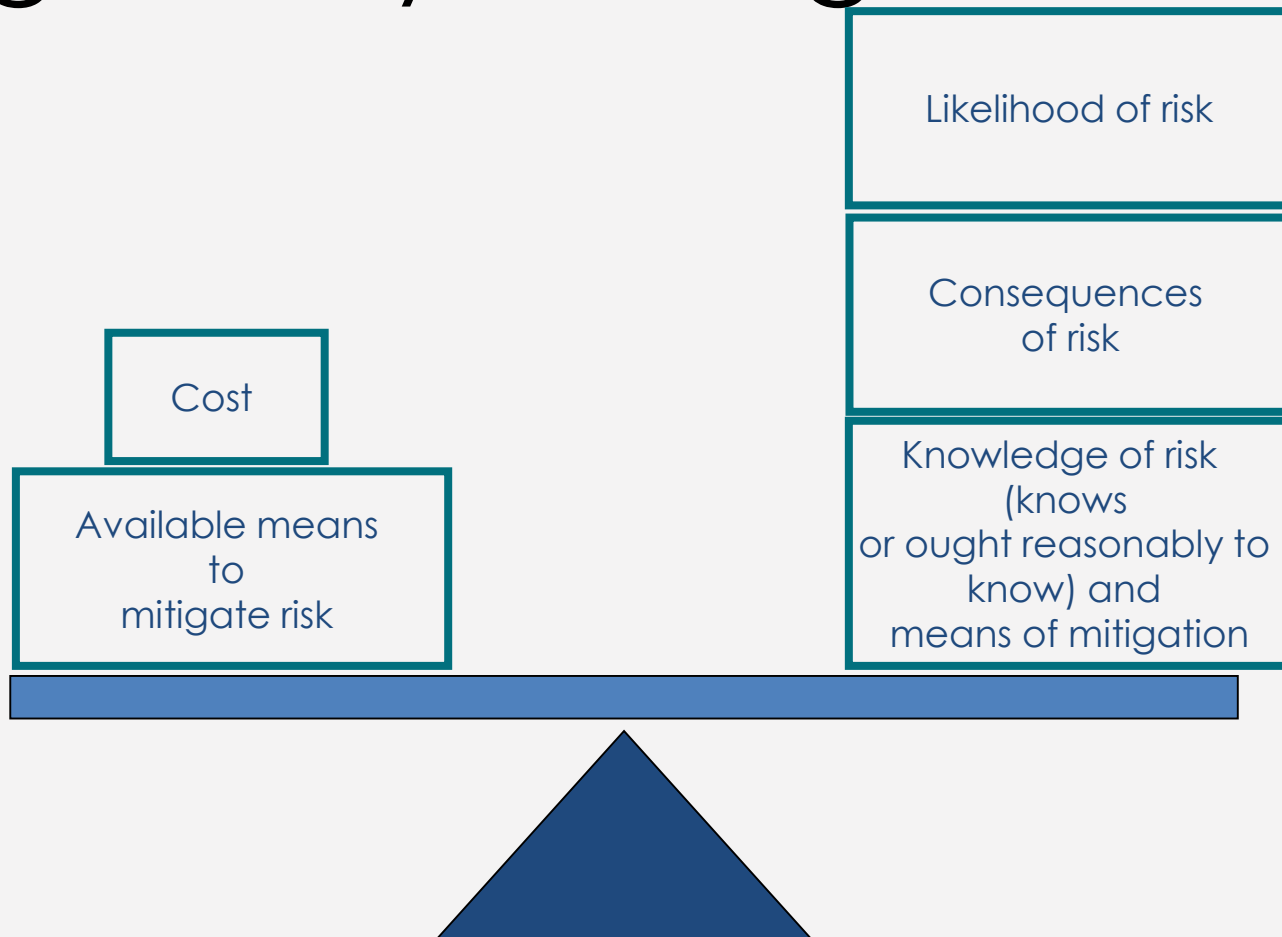
# Regulatory Change

- *Work Health and Safety Bill 2019* introduced into parliament on 27 November 2019
- Bill has passed the lower house and is being considered by the committee in the upper house
- Public consultation on draft Regulations closed on 26 November 2019

# Regulatory Change

- Concept of PCBU
- Primary duty to ensure health and safety

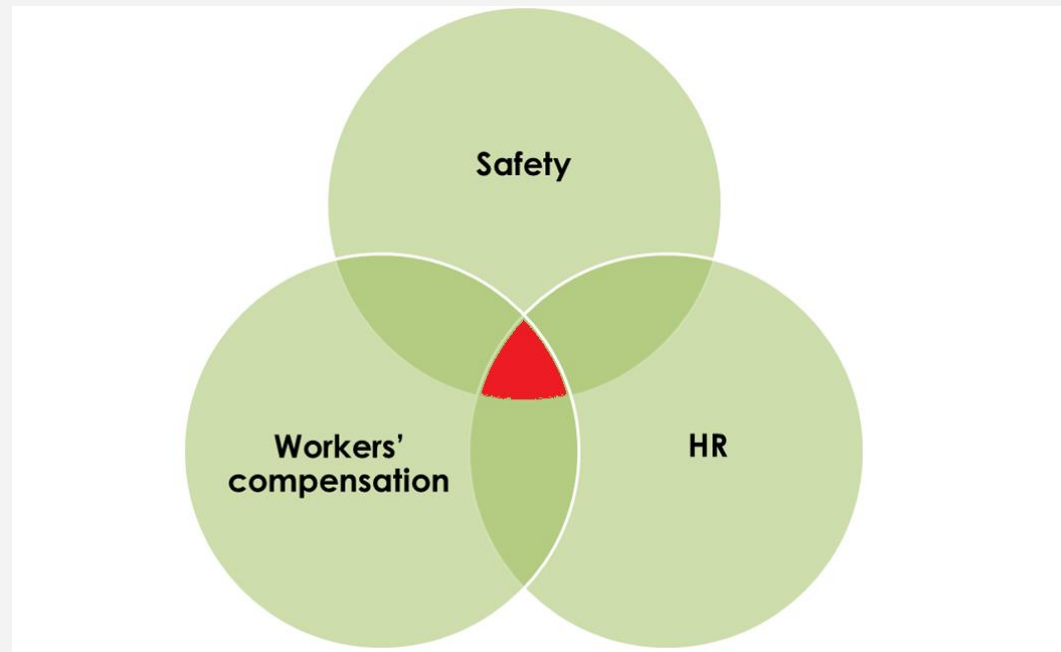
# Regulatory Change





# Regulatory Change

- Health defined to include psychological health



# Regulatory Change

- Duty to not put the health and safety of others at risk arising from work carried out by the PCBU

# Regulatory Change

- Officer's due diligence
  - Knowledge
  - Understanding
  - Resources
  - Analysis and response
  - Compliance
  - Auditing



# Regulatory Change

- Duty to consult with workers
- Duty to consult with other duty holders
- Increase in HSR powers
- Enforceable undertakings

# Regulatory change

- Industrial Manslaughter
  - Crime – 20 years jail + \$5 million (individual) or \$10 million (body corporate)
  - Simple offence – 10 years jail + \$2.5 million (individual) or \$5 million (body corporate)
  - Officers can be charged

# Regulatory Change

- Insurance and indemnities for fines void
- Offence to try and obtain such coverage
- Can still insure legal costs
- Need to take steps now to ensure compliance

# Regulatory Action

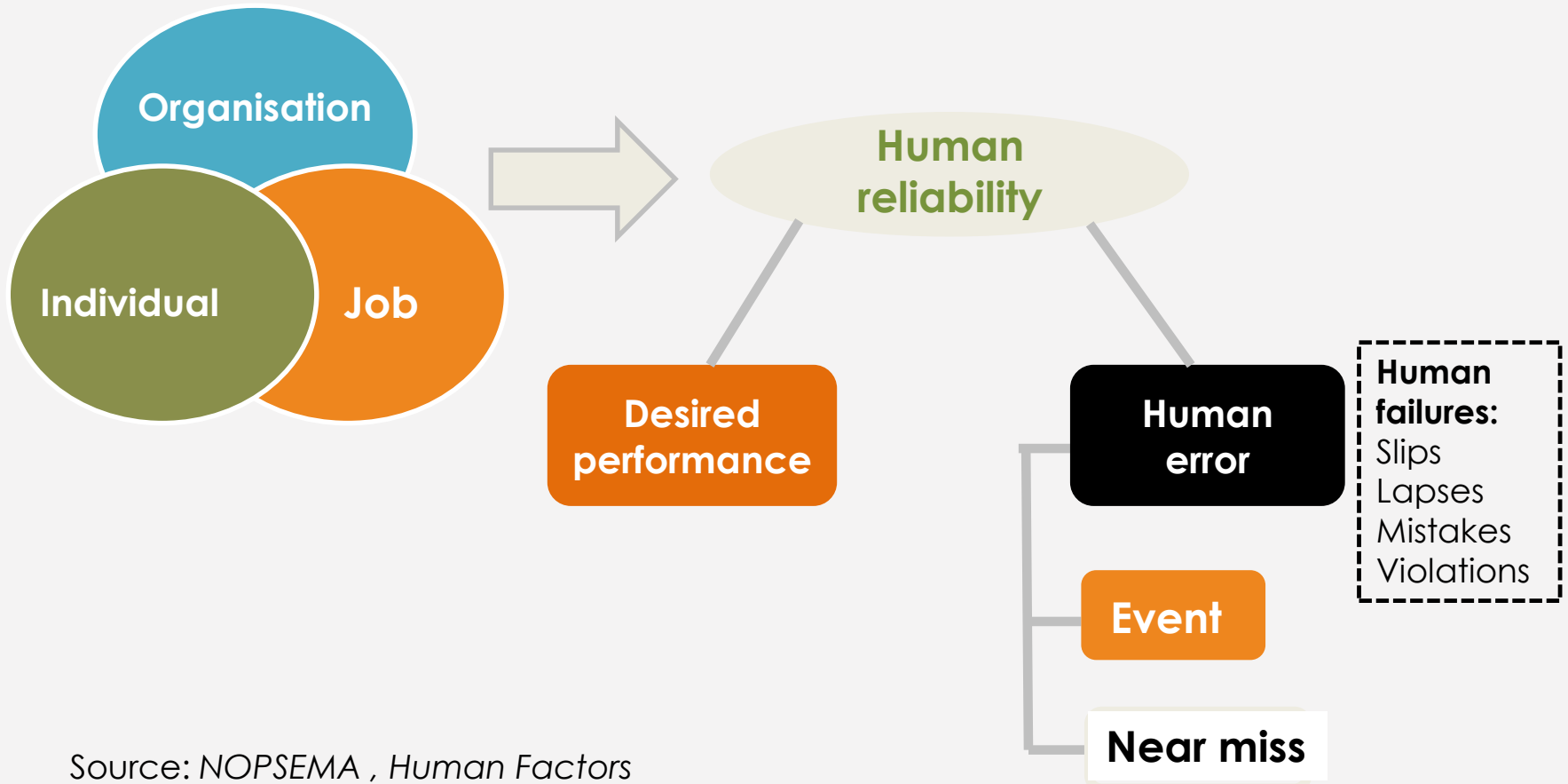
- Psychosocial
  - Prohibition notices to individuals to stop conduct
  - Improvement notices requiring risk assessment and controls
  - Improvement notices requiring investigations
  - Clear need to focus on psychosocial matters as being safety issues

# Regulatory Action

- Human Factors
  - investigate the human factors involved in an incident
  - identifying 'human error' or 'complacency' is not enough



# Regulatory Action



Source: NOPSEMA , Human Factors

# Regulatory Action

- Technology
  - Interest in incidents involving automated equipment
  - Designer duties
  - Loss of understanding of risks

# Other jurisdictions

- Directors jailed for breaches of WHS legislation
- Industrial manslaughter charges issued
- Trend is for regulators to exercise more statutory powers

# Key Takeaways

- You need to be taking steps now to understand the new WHS laws
  - What changes your business will have to make
  - How you can develop simple systems to demonstrate compliance
- Regulatory drive is getting the next steps change in safety
- You will need further training

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