

## Case learnings – April 2024

### Background

A company formed part of a national logistics group which engaged heavy vehicle drivers to transport temperature-controlled freight across Australia. Drivers were required to conduct ‘changeovers’ at designated locations by uncoupling and coupling trailers. One designated location was a stretch of road next to an out-of-service BP service station.

On 6 July 2021, a linehaul driver undertaking changeover duties at this location stepped out onto the road, was struck by a heavy vehicle travelling at approximately 75 km/h and was killed.

The company was prosecuted by SafeWork New South Wales (NSW), for 1 offence pursuant to section 32 of the *Work Health and Safety Act 2011* (NSW) – a failure to comply with a health and safety duty where the failure exposed an individual to a risk of death or serious injury (category 2).

An ex-parte hearing was held in the District Court of NSW on 20 February 2024.



### The Court’s considerations

The Court observed that the changeover location was near oncoming traffic in a 100km speed zone. The tasks workers were required to perform involved working on, or very close to, the road.

The Court further noted that the risk of injury or death to pedestrians who were in close proximity to a moving vehicle was widely known and one the company ought to have foreseen.

The Court held that:

- The company failed to conduct a risk assessment for performing changeovers at the changeover location. Whilst the company had conducted a risk assessment of the operation of heavy vehicles broadly, the assessment did not consider the risks associated with the task of conducting changeovers, or the risks specific to the particular changeover site.
- Whilst the company did have guides and training programs in place for changeovers generally, it did not have a system of work in place that dealt specifically with the coupling and uncoupling of trailers in proximity to vehicle traffic (or other powered mobile plant).
- The company did not provide its drivers with training in relation to the hazards of working near vehicle traffic when conducting changeovers, or the control measures to be implemented to eliminate or minimise the risk of workers being struck.
- The company did not enforce the requirement for drivers to wear adequate high-visibility clothing at changeover locations. The deceased worker was not wearing a high-visibility vest or shirt at the time of the incident.

### The Court’s decision

The Court held that the costs associated with implementing the measures identified were not grossly disproportionate to the risk of workers being seriously or fatally injured when struck by oncoming vehicles, and that the failure to implement those measures was a substantial or significant cause of the risk.

The company was convicted of the offence and fined \$800, 000.

For more information about the case, see [SafeWork NSW](#).

## Guidance for operators

The case provides some reasonably practicable measures operators can take to reduce or minimise the risks associated with drivers undertaking uncoupling and coupling of trailers, including:

- Undertaking a site-specific risk assessment in relation to the task of conducting changeovers to identify hazards and risks considering traffic, lighting, road condition and site size.
- Developing, implementing, and enforcing a safe system of work for changeovers to occur away from traffic, under adequate lighting, with sufficient space and requiring workers to wear adequate high visibility clothing.
- Providing adequate information, training, and instructions to workers in relation to the risk of being struck by traffic and the control measures to be implemented and enforced.
- Ensuring and enforcing the requirement for drivers to wear adequate high-visibility clothing.

These reasonably practicable measures are just examples of potential controls that you can implement and should be read in conjunction with those outlined in the registered industry [Master Code](#).



### For more information:

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