



WHS Legislation Designer Duties in NSW

Outcomes for the day

Progress update – harmonised laws

Key areas of Designer Duties changes for
NSW

Implementation and support

How is the change occurring?

Safe Work Australia

Act, Regulations, Priority Codes of Practice

State by State

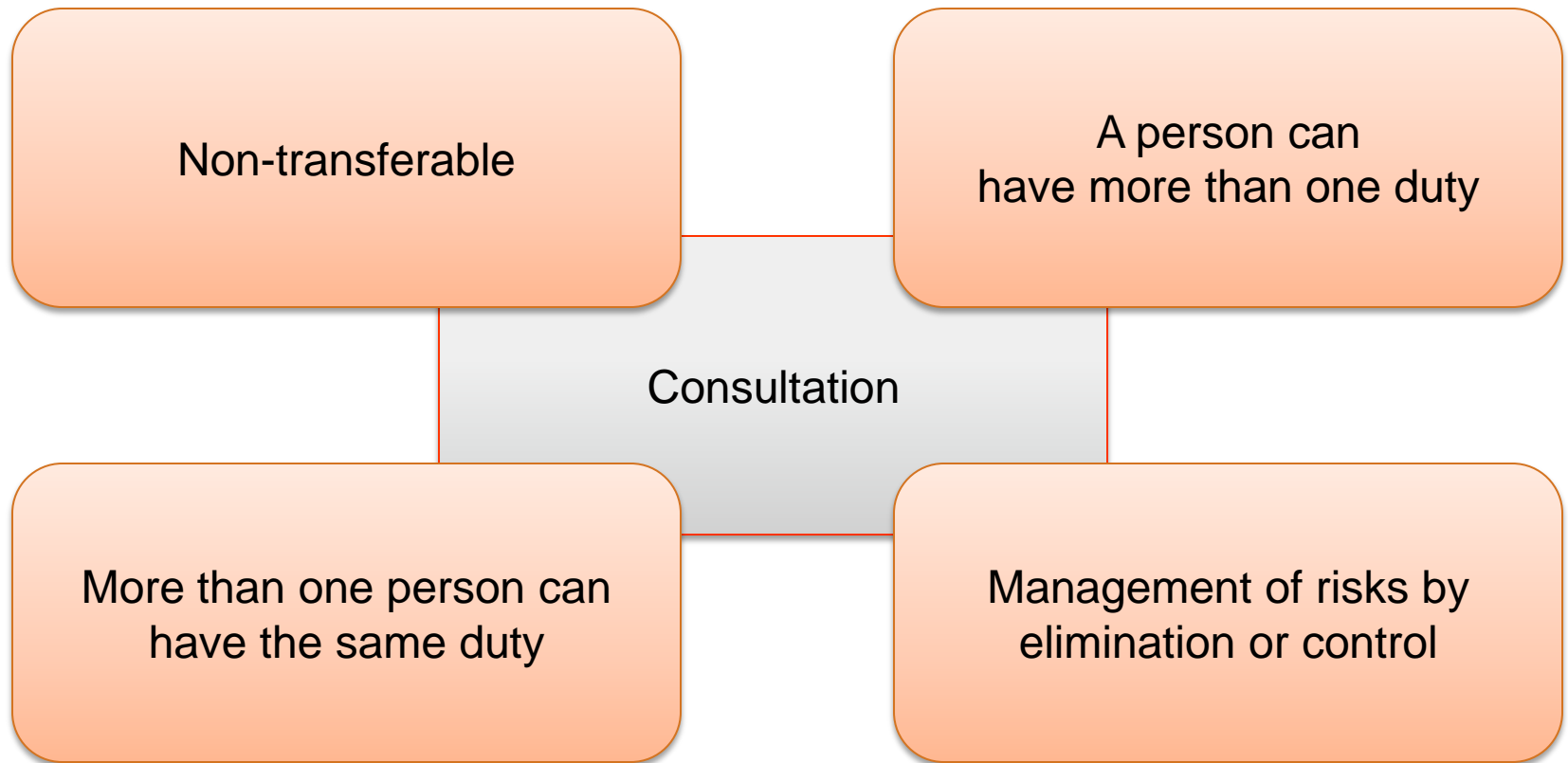
1 January 2012

Key changes for Designers in NSW under the WHS Act

- Duty holders
- PCBU replaces employer
- Officers and due diligence
- Reasonably practicable
- Consultation
- Safety Reports



Principles of duties



Officer

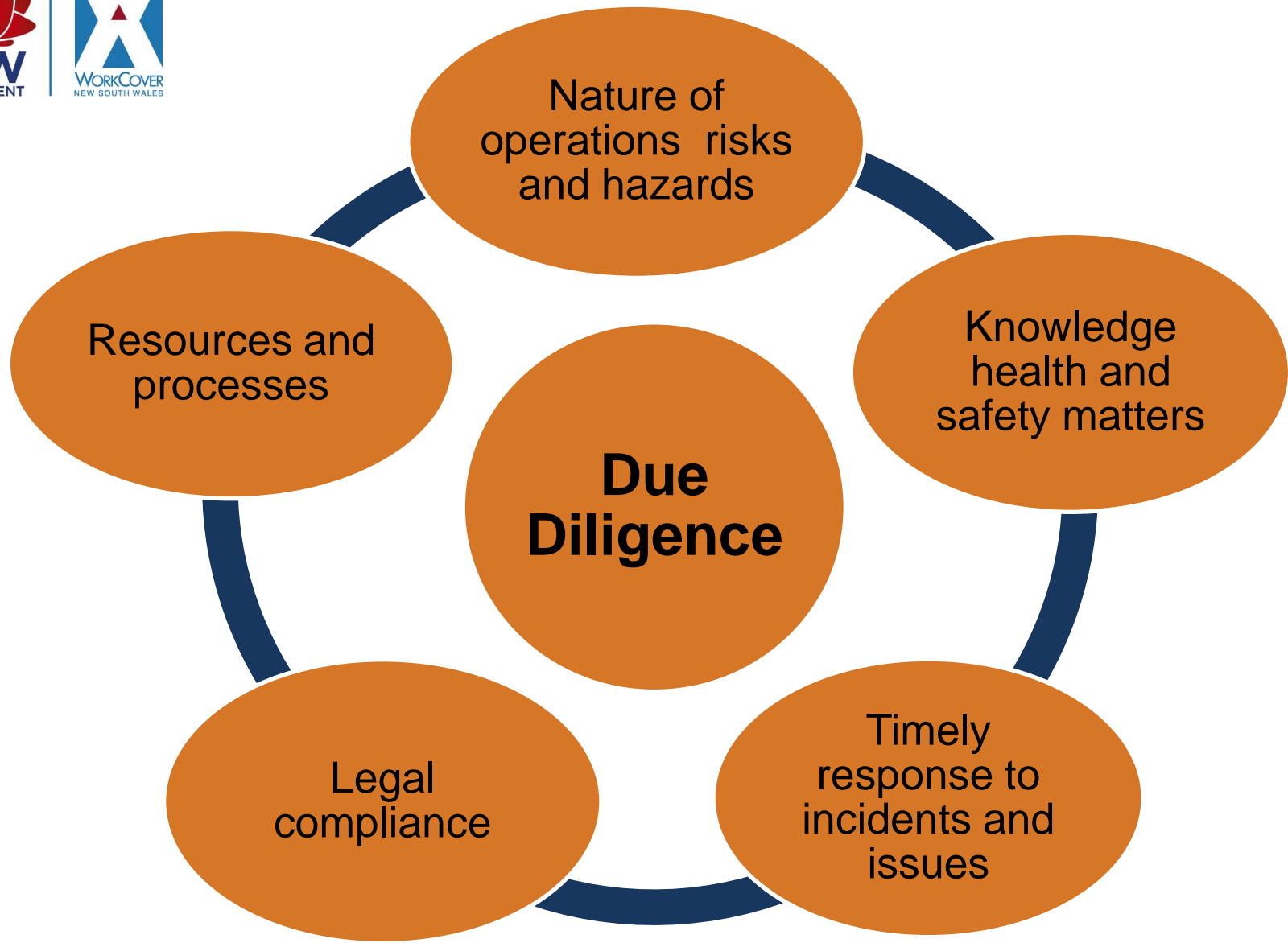
The WHS Act places duties on ‘officers’ of a PCBU. Officers are defined as anyone who is an officer under section 9 of the *Corporations Act 2001* (Commonwealth). This includes “A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or undertaking”.

- Examples of officers include (but are not limited to):
- Chief Executive Officer
- Company Directors Chief Financial Officer

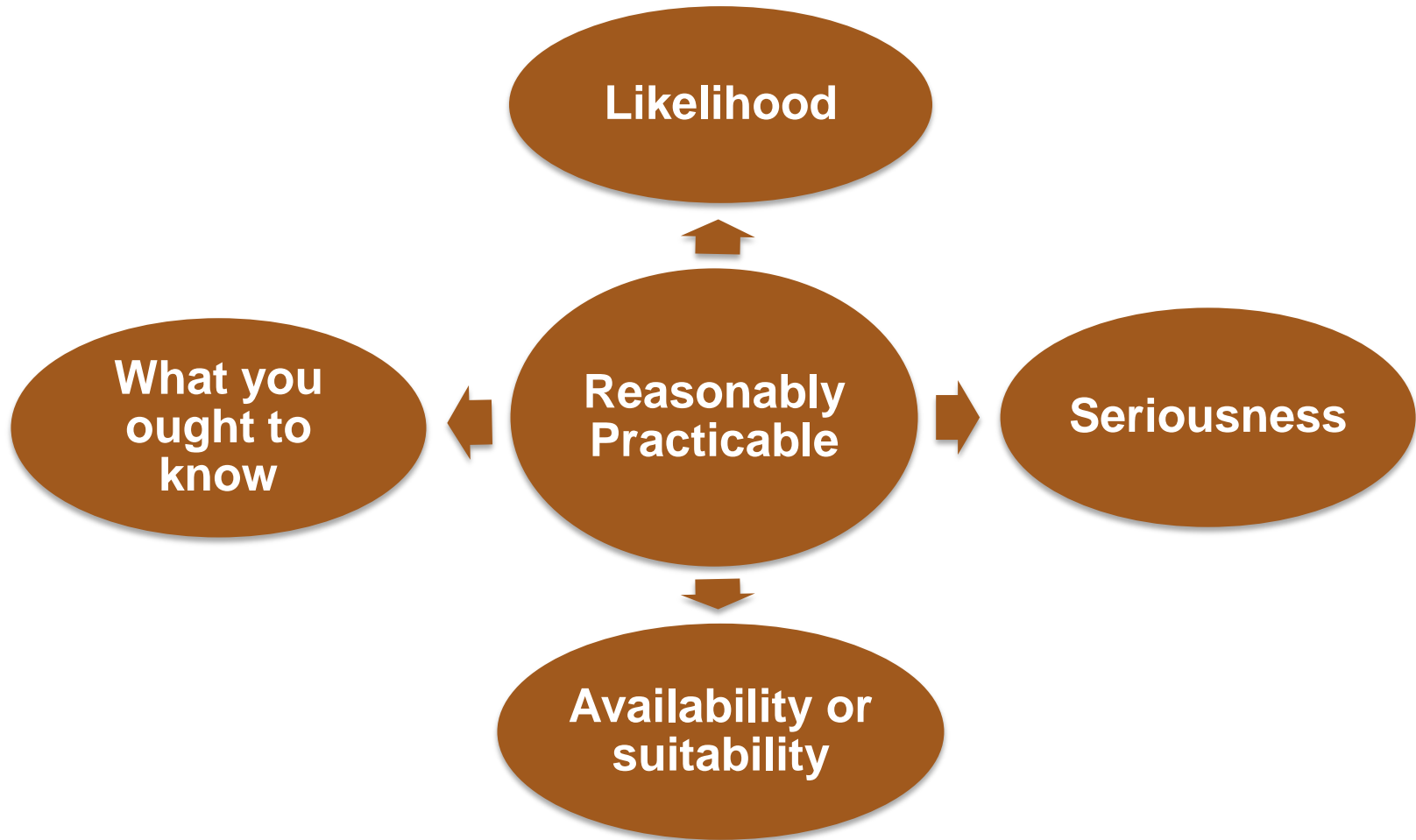
Officer

Officers are required to exercise ‘due diligence’ to ensure that the PCBU meets its health and safety duties.

- An officer of a corporation who is a volunteer must exercise due diligence but cannot be prosecuted for not complying with the requirements of an officer.



Reasonably Practicable



Consultation



Plant and Structures

PCBUs who:

- design, manufacture
- import, supply
- install, construct or commission
- manage or control

plant or structures have duties under the WHS Regulations



Key changes for Designers in NSW under WHS Legislation

Designer Duties

- Designers of **structures** new duties
- Design so far as reasonably practicable with out risk to health and safety of workers
- Designer Safety Report - identifies hazards and risks to health and safety of workers
- Designer and PCBU commissioning project consult in preparing report
- Report to be provided to PCBU commissioning the construction project

Key changes for Designers in NSW under WHS Legislation

Definition of a Structure *means*: anything that is constructed, whether fixed or moveable, temporary or permanent, and includes:

- buildings, masts, towers, framework, pipelines, transport infrastructure and underground works (shafts or tunnels), and
- any component of a structure, and
- part of a structure.

Person who commissions work MUST

Consult with the designer about how to ensure risks arising from the design during construction work are:

- Eliminated, so far as is reasonably practicable, or
- Minimised, so far as is reasonably practicable
- Give the designer information regarding hazards and risks at the workplace where the construction works is to be carried out

Designer to provide Safety Report

The designer of a structure must give the person who commissions the design a written report on hazards, so far as aware of that:

- Create a risk to persons who carry out any construction work on the structure, and
- Are associated with that particular design and not with other designs of the same type of structure



Person who commissions project MUST

If a person conducting a business or undertaking that commissions a construction project engages a principal contractor for the project, the person must give the principal contractor any information the person has in relation to hazards and risks at or in the vicinity of the workplace where the construction work is to be carried out.



More Information

- WorkCover website
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- WorkCover Assistance Service
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- Safe Work Australia website
www.safeworkaustralia.gov.au



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