



# Enforceable Undertaking

## Chapter 10.1A

### Heavy Vehicle National Law

The commitments in this enforceable undertaking are offered  
to the National Heavy Vehicle Regulator

By

Civilscape Contracting Tasmania Pty Ltd

ACN: 116 825 686

## **Part 1 Executive summary**

### **Section 1 Agreed actions**

1. Webinar Presentation
2. Training Program
3. Monitoring System and Audit
4. Donation to Charity group

### **Section 2 Total cost of actions**

5. Webinar Presentation estimated cost of \$1,500.00
6. Training Program estimated cost of \$3,180.00
7. Monitoring System and Audit estimated cost of an initial \$10, 145.00
8. Donation to Charity group in amount of \$1,000

## **Part 2 General information**

### **Section 1 Purpose**

9. The purpose of this enforceable undertaking is to document the undertakings offered to the National Heavy Vehicle Regulator (NHVR) pursuant to Chapter 10.1A of the Heavy Vehicle National Law (HVNL) in connection with a matter relating to an alleged contravention of the HVNL.

### **Section 2 Details**

10. The commitments in this enforceable undertaking are offered to the NHVR by Civilscape Contracting Tasmania Pty Ltd.
11. This enforceable undertaking is given on the day and date that it is accepted and signed by the NHVR. The undertaking and its enforceable terms will operate as a legally binding commitment on the part of the person from

the date it is given.

#### Details of the person proposing the undertaking:

Registered address:	[REDACTED]
Postal address:	[REDACTED]
Telephone:	[REDACTED]
Email address:	[REDACTED]
Legal structure:	Australian Private Company
Type of business:	Civil Contractors
Commencement of entity:	1 <sup>st</sup> November 2005
Number of workers:	12
Products and/or services:	Civil works, plant & machinery hire

#### Details of the alleged contravention

12. Breach of Section 96(1) Heavy Vehicle National Law
13. On 11 February 2021 at Howth, in the State of Tasmania, CIVILSCAPE CONTRACT TASMANIA Pty Ltd, (ABN 84 116 825 686) permitted another person, [REDACTED] to drive a heavy vehicle, namely, an Isuzu heavy rigid tipper, [REDACTED] towing a triaxle 'tag' trailer, registration number [REDACTED] on a road, namely the Bass Highway, without ensuring that the vehicle, its components and load, complied with the applicable mass requirements, namely that the mass on the 'tag' was greater than the sum of mass on all of the axles on the towing vehicle, contrary to section 96(1) of the Heavy Vehicle National Law and Schedule 1 Part 1 Clause 2(4A) of the Heavy Vehicle (Mass Dimension and Loading) National Regulation and there was no reasonable excuse and the breach is a severe risk breach.

#### Details of the events surrounding the alleged contravention

14. As above

#### The details of any injury or financial loss that arose from the alleged contravention

15. There were no injuries or financial loss that arose as a result of the alleged contravention.

#### The details of any notices issued that relate to the alleged contravention

16. The corporate defendant has received a summons in respect of the alleged contravention that occurred on 11 February 2021 in relation to a hearing before the Burnie Magistrates Court of Tasmania.

#### The details of any existing transport safety management systems at the workplace including the level of auditing currently undertaken

17. Civilscape Contracting Tasmania Pty Ltd has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance. No formal auditing is undertaken.
18. We have an external business that assists with our workplace relations and WHS. They have helped us refine and in some cases implement the below;
  - a. Health & Safety Manual (Business)
  - b. Health & Safety Handbook (Employee)
  - c. Safety Management system, forms, registers, SOP's
  - d. SWMS
  - e. JSA

### **Any consultation undertaken within the company regarding the proposal of an EU**

19. Consultation has been undertaken between management, administration and truck and plant operators regarding our proposal for an EU.
20. Input has been received by all parties mentioned above, to ensure our suggested actions are cohesive, practical, achievable and can be successfully implemented.

### **Section 3 Statements**

#### **Statement of assurance**

21. The corporate defendant confirms that it is committed to complying with its obligations under the HVNL and ensuring so far as is reasonably practicable, the health and safety of all workers and others that have the potential to be affected by its business or undertaking.

#### **Statement of regret**

22. The corporate defendant regrets that the incident on 11 February 2021 occurred.

#### **Statement of ability to comply**

23. The corporate defendant confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

#### **Statement granting permission to use**

24. The corporate defendant grants the NHVR permission to use any documents, policies and procedures developed as a result of this enforceable undertaking for the purpose of training and development by the NHVR.

#### **Statement of prior undertakings**

25. Not applicable

### **Section 4 Acknowledgement**

26. The corporate defendant acknowledges that the NHVR alleges that the corporate defendant has contravened section 96(1) of the HVNL.
27. The alleged contraventions are taken very seriously by the corporate defendant, its directors and senior management, who are committed to providing a safe and healthy workplace and environment to conduct its business in a way that helps protect the communities in which it operates.

### **Section 5 Details of Injury or Illness**

#### **Types of workers compensation provided (if the injured person is a worker of the person)**

28. Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention.

#### **Support provided, and proposed to be provided, to the injured person to overcome injury/illness**

29. Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention.

### **Section 6 Rectifications made**

30. Civilscape Contracting Tasmania Pty Ltd is committed to ensuring it has developed systems that identify, assess and control risks and are designed to promote continual improvement and as a result of the alleged contravention, the following opportunities for enhancement of processes have been undertaken:

Description	\$ Amount
Consultation with management, administration and operators around mass dimension and load requirements	\$1,200
Commenced weighing of trucks, machinery, trailers & floats and compiling of records	\$650
Making concrete blocks suitable to travel in the back of trucks when floating machinery to ensure loads are compliant	\$2,200
Photographing and compiling records of machinery tied down on floats as reference points for compliance	\$1,000
<b>Total cost p.a.</b>	<b>\$5,050.00</b>

## Section 7 Acknowledgement of publication

31. Civilscape Contracting Tasmania Pty Ltd acknowledges that the enforceable undertaking will be published on the NHVR's internet site and may be referenced in the NHVR's publications.

## Part 3 Enforceable terms

### Section 1 Commitments

#### Commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur

32. Civilscape Contracting Tasmania Pty Ltd is committed to ensuring that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence.

#### Commitment to the ongoing effective management of public risk associated with transport activities

33. Civilscape Contracting Tasmania Pty Ltd is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
34. Civilscape Contracting Tasmania Pty Ltd has a commitment to ongoing continuous improvement in how it manages risks associated with its business operations, including the review of new technology when made available.

#### Commitment to disseminate information about the EU to workers and other relevant parties in the chain of responsibility

35. Civilscape Contracting Tasmania Pty Ltd is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including senior and operational management, health and safety management team, Health and Safety Committees and Health and Safety Representatives, workers, and all relevant contractors and subcontractors working for Civilscape Contracting Tasmania Pty Ltd. This information will be disseminated through:
- For internal employees: Toolbox talks by management and documents kept in clearly marked folder in the work crib room.
  - For external contractors and sub-contractors: Communication will be provided via email

#### Commitment to participating constructively in all compliance monitoring activities of the EU

36. Civilscape Contracting Tasmania Pty Ltd is committed to participating constructively in all compliance monitoring activities of the EU.

37. Civilscape Contracting Tasmania Pty Ltd acknowledges that responsibility for demonstrating compliance with the undertaking rests with Civilscape Contracting Tasmania Pty Ltd and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
38. It is acknowledged that the NHVR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to the NHVR including providing details of workshops and training conducted for industry and community benefit.

**Commitment that any promotion of a benefit arising from the EU will clearly link the benefit to the undertaking and make it clear that the undertaking was entered into as a result of an alleged contravention**

39. Civilscape Contracting Tasmania Pty Ltd is committed to ensuring that any promotion of a benefit arising from this enforceable undertaking will clearly link the benefit to the undertaking and that the undertaking was entered into as a result of the alleged contravention.

## Section 2 Strategies that will deliver benefits

### Benefits to drivers and parties within the chain of responsibility

40. As part of this enforceable undertaking, Civilscape Contracting Tasmania Pty Ltd aims to deliver strategies that focus on benefits to:
- drivers and parties within the chain of responsibility
  - the transport industry and the broader community.
41. Civilscape Contracting Tasmania Pty Ltd intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Civilscape Contracting Tasmania Pty Ltd workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

### Activities

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#### Activity 1 – Webinar Presentation

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##### Scope

Civilscape Contracting Tasmania Pty Ltd undertakes to organise, present and record a webinar for the *Tasmanians in Transport* Facebook page members (approx. 4,600 members) which will be supported by social media campaign advertising.

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##### Details

The webinar would feature [REDACTED] together with Legal Counsel, discussing the experience with the NHVR Director of Prosecutions and relevant laws surrounding heavy vehicles with the aim of ensuring that the industry in Tasmania understands the need for full compliance with weight mass requirements. The webinar will be recorded by the corporate defendant. The corporate defendant will use the *Tasmanians in Transport* Facebook page to advertise the recording of the webinar so that those who cannot attend are still able to view and access the webinar content.

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##### Timeframe

Civilscape Contracting Tasmania Pty Ltd estimate the Facebook group webinar will run for around 1 hour and that preparation for the webinar will take around 3 hours. Within 3 months from acceptance of EU

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##### Outcome

Ensuring that the industry in Tasmania understands the need for full compliance with weight mass requirements.

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##### Costs

Civilscape Contracting Tasmania Pty Ltd will pay for the execution of the webinar and its advertisement including paying hourly fees for staff (\$80 per hour) and Legal Counsel (\$550 per hour) to participate. The estimated cost will be around \$1500.

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**Activity 1 – Webinar Presentation**


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**Output**

Recorded webinar that will be available now and in to the future as a reference point for compliance with weight mass requirements.

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**Activity 2 – Training Program**


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**Scope**

Civilscape Contracting Tasmania Pty Ltd undertakes to organise a training program for all Civilscape Contracting Tasmania Pty Ltd staff members to be facilitated and presented by a reputable third-party training provider.

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**Details**

Civilscape Contracting Tasmania Pty Ltd will engage Australian Onsite Training (<https://australianonsitetraining.com.au/>) who are nationally accredited in load and mass training to conduct a real time training session with staff. Civilscape Contracting Tasmania Pty Ltd will follow the recommendations of Australian Onsite Training engaging in the TLID0015 – Load & unload goods/cargo training.

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**Timeframe**

Within 6 months from acceptance of the EU

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**Outcome**

Training and awareness of all staff members of Civilscape Contracting Tasmania Pty Ltd.

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**Costs**

The cost of this course is \$350 per person for the 6 attendees for 4 hours of training which our client will absorb together with paying staff wages of \$45 per hour (approx. \$3,180.00).

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**Output**

Nationally accredited statement of attainment.

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**Activity 3 – Monitoring System and Audit**


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**Scope**

Civilscape Contracting Tasmania Pty Ltd undertake to immediately implement and monitor a system that allows staff drivers and Civilscape Contracting Tasmania Pty Ltd management to ensure that all trucks and trailers are fully compliant with mass specs prior to travel. Civilscape Contracting Tasmania Pty Ltd undertakes to audit the implementation of this system to ensure that the new training and wright documents are effective.

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**Details**

Civilscape Contracting Tasmania Pty Ltd has now registered with its local weighbridge and will agree to weighing all trucks, machinery, floats and trailers. Civilscape Contracting Tasmania Pty Ltd will compile all recorded weights into a user-friendly document that will be kept within all trucks, showing a breakdown of weight distributions (i.e if a driver is using x truck, with x float, with x machine, they will need x weight in the back).

Civilscape Contracting Tasmania Pty Ltd will identify an organisation to audit the new documentation after 6 months and then regularly after that time.

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**Timeframe**

Immediate and ongoing.

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**Outcome**

Ensuring that all trucks and trailers are fully compliant with mass specs prior to travel.

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**Costs**


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**Activity 3 – Monitoring System and Audit**

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Payment of \$11.30 per weigh (estimating 250 weighs) to utilise this service (\$2,825.00)

Payment in excess of \$1,000 for labour involved with staff to weigh the vehicles.

Estimated cost of the new paperwork at \$1000 and regular audits at a cost of around \$4000 to \$5000 per audit.

Administration costs of approximately \$320 to compile documents.

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**Output**

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A fully audited monitoring system that ensures we always remain compliant.

A user friendly system that provides current and up to date information for any user.

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**Activity 4 – Donation to charity**

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**Scope**

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Civilscape Contracting Tasmania Pty Ltd undertakes to make a donation to Motor Neuron Disease Association of Tasmania.

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**Details**

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Civilscape Contracting Tasmania will make a one off donation to Motor Neuron Disease Association Tasmania branch (mndatas.asn.au)

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**Timeframe**

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Within 1 month from acceptance of the EU.

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**Outcome**

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Donation to a Tasmanian charity.

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**Costs**

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\$1,000

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**Output**

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Donation to assist someone in their battle with motor neuron disease.

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42. The total estimated value of the undertaking is \$15,825.00

## Part 4 Offer of undertaking

Executed as an Undertaking

Civilscape Contracting Tasmania Pty Ltd ACN: 116 825 686

Executed by Civilscape Contracting Tasmania Pty Ltd ACN: 116 825 686 pursuant to section 127(1) of the *Corporations Act 2001 (Cth)* by:

 Signature of Director	          Signature of Director/Company Secretary
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<b>Name of Director (print)</b>	<b>Name of Director/Company Secretary (print)</b>
<b>Date:</b> Click or tap to enter a date. 17-6-2022.	<b>Date:</b> Click or tap to enter a date.

## Part 5 Acceptance of undertaking

Accepted by the National Heavy Vehicle Regulator pursuant to sections 590A(2) and 661(1)(b) of the Heavy Vehicle National Law by:

<b>Signature of Chief Executive Officer</b>
<i>Sal Petrocchio</i>
<b>Name of Chief Executive Officer (print)</b>
<i>27/06/2022</i>
<b>Date:</b> Click or tap to enter a date.