



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

City 2 Sea Landscapes Pty Ltd

ABN: 37 620 872 675

Part 1 Executive summary

Section 1 Agreed actions

1. All City 2 Sea Landscapes employees and management to undertake online transport safety and Chain of Responsibility training.
2. Host a workshop for small local businesses in the Gippsland area (landscapers, tradespeople, etc) on heavy vehicle and road transport safety.

Section 2 Total cost of actions

3. Total costs of rectifications already made is \$41,036.03.
4. Total costs of additional strategies to enhance compliance with HVNL is \$7,120.

Part 2 General information

Section 1 Purpose

5. 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

6. The commitments in this enforceable undertaking are offered to the NHVR by City 2 Sea Landscapes Pty Ltd (**City 2 Sea Landscapes**).
7. 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:	3 Napier Street, Warragul, VIC, 3820
Postal address:	3 Napier Street, Warragul, VIC, 3820
Telephone:	[REDACTED]
Email address:	[REDACTED]
Legal structure:	Proprietary Limited Company
Type of business:	Landscape services
Commencement of entity:	2017
Number of workers:	4
Products and/or services:	City 2 Sea Landscapes is a landscaping company based in the Gippsland region of Victoria. City 2 Sea Landscapes has one rigid tipper that can be used in combination with a trailer to transport materials and tools, to and from site.

Details of the alleged contravention

9. It is alleged by the NHVR that on 8 April 2020 at Warragul, City 2 Sea Landscapes permitted a heavy vehicle to be driven, namely a white 2-axle Isuzu rigid tipper with the registration number XV86KM (VIC) towing a 1-axle trailer on a road without ensuring that the vehicle, its components and load, complied with the applicable dimension requirements, namely that the vehicle exceeded the prescribed rear overhang limit, contrary to section 102(1) of the HVNL, carrying a maximum penalty of \$56,950.
10. It is also alleged at the same time, that City 2 Sea Landscapes permitted the heavy vehicle to be driven on a road without ensuring that the vehicle, its components and load, complied with the applicable loading requirements, contrary to section 111(1) of the HVNL, carrying a maximum penalty of \$28,550.

Details of the events surrounding the alleged contravention

11. On 8 April 2020, authorised officers of the NHVR observed a heavy vehicle namely a white 2-axle Isuzu rigid tipper with the registration number XV86KM towing a 1-axle trailer (**the vehicle**) travelling on a public road in the Warragul area. The trailer was loaded with timber planks that appeared to exceed rear overhang limits. As they followed the vehicle, the authorised officers noticed that the timber planks turned and moved.
12. The authorised officers intercepted the vehicle and spoke to the driver. The vehicle and load were inspected.
13. The rigid tipper was registered to City 2 Sea Landscapes.
14. The vehicle and load were measured with the permitted rear overhang based on the measured wheelbase of the trailer being 1040mm. The detected rear overhang was 2240mm. Taking into account the applicable dimension adjustment, the alleged rear overhang was 2140mm, which is 1100mm in excess of the prescribed length limit. As this exceeds the prescribed length limit by more than 600mm the alleged contravention is a severe risk breach pursuant to the *Heavy Vehicle (Mass, Dimension and Loading) National Regulations*.
15. The load of timber planks was not adequately secured to meet the loading requirements prescribed in Section 38 and Schedule 7 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulations*. As such the alleged contravention is a substantial risk breach pursuant to the *Heavy Vehicle (Mass, Dimension and Loading) National Regulations*.

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

16. 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

17. City 2 Sea Landscapes was served with a letter from the NHVR dated 22 April 2021 (NHVR reference 2302) enclosing a charge-sheet and summons requiring City 2 Sea Landscapes to attend the Magistrates' Court at Latrobe Valley on 28 July 2021. That date has been adjourned by consent.

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

18. City 2 Sea Landscapes have a Safety Officer who is responsible for developing and monitoring the safety of transport activities and compliance with the HVNL and road laws.
19. Charts showing allowable dimension limits are on display in workshop.

20. Workers are required to complete a pre-departure safety check on each vehicle and load. The checks are then signed off that the vehicle and load are safe and compliant with legal requirements. Checks include vehicle roadworthiness, load restraint and dimension limits.

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

21. Consultation has been undertaken regarding the proposal of this enforceable undertaking. Consultation has occurred within the management teams and operational teams.

Section 3 Statements

Statement of assurance

22. City 2 Sea Landscapes 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 other persons that have the potential to be impacted by its business or undertakings.

Statement of regret

23. City 2 Sea Landscapes regrets that the incident on 8 April 2020 occurred.

Statement of ability to comply

24. City 2 Sea Landscapes confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement granting permission to use

25. City 2 Sea Landscapes grants the NHVR a permanent, irrevocable, royalty-free, worldwide non-exclusive licence to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking.

Statement of prior undertakings

26. Not applicable

Section 4 Acknowledgement

27. City 2 Sea Landscapes acknowledges that the NHVR alleges City 2 Sea Landscapes has contravened Section 102(1) and 111(1) of the HVNL.

28. The alleged contravention is taken very seriously by City 2 Sea Landscapes, its director and management team, who are committed to providing a safe and healthy workplace to conduct its business in a way that helps protect the environment and 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)

29. 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

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

Section 6 Rectifications made

31. City 2 Sea Landscapes 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
Purchase of black tandem axle Traralgon trailer.	\$8000
Installation of steel racks onto rigid tipper and trailer for timber carrying purposes to ensure planks are transported within prescribed legal limits.	\$2190.85
Employment of safety officer responsible for developing and monitoring the safety of transport activities and compliance with the HVNL and road laws.	\$30,845.18
Charts showing allowable dimension limits placed on display in workshop.	\$0
Pre-departure safety check developed and implemented to check each vehicle and load.	\$0
Total cost p.a.	\$41,036.03

Section 7 Acknowledgement of publication

32. City 2 Sea Landscapes 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

33. City 2 Sea Landscapes 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

34. City 2 Sea Landscapes is committed to the ongoing effective management of public risks

associated with transport activities within its business operations.

35. City 2 Sea Landscapes 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

36. City 2 Sea Landscapes is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including City 2 Sea Landscapes' executive, senior and operational management and all relevant subcontractors working for City 2 Sea Landscapes. This information will be disseminated through email and toolbox talks.

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

37. City 2 Sea Landscapes is committed to participating constructively in all compliance monitoring activities of the enforceable undertaking. It is acknowledged that responsibility for demonstrating compliance with the undertaking rests with City 2 Sea Landscapes.

38. The evidence to demonstrate compliance with this undertaking will be retained by City 2 Sea Landscapes until advised by the NHVR that this undertaking has been completely discharged.

39. 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 enforceable undertaking 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.

40. City 2 Sea Landscapes 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

41. As part of this enforceable undertaking, City 2 Sea Landscapes aims to deliver strategies that focus on benefits to:

- a. drivers and parties within the chain of responsibility
- b. the transport industry and the broader community.

42. City 2 Sea Landscapes intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train, and raise awareness among City 2 Sea Landscapes workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

Activities

Activity 1 – Chain of Responsibility Training

Scope

Improve understanding and knowledge of transport safety and Chain of Responsibility obligations amongst City 2 Sea Landscapes employees and management.

Details

All City 2 Sea Landscapes employees and management to undertake transport safety and Chain of Responsibility online awareness course. Course will include understanding the impacts associated with failing to manage transport safety risks, the key safety risks and how to control these, legalisation including the concept of “Chain of Responsibility”, and the role and responsibilities of a parties within the supply chain.

Timeframe

The activity will be completed within 6 months of acceptance of this enforceable undertaking.

Outcome

Increased understanding of the risk associated with road transport and the important part all parties in the supply chain play in the ensuring the safety of the community as a whole within the City 2 Sea Landscapes business.

Costs

\$1,120

Output

A copy of Certificates of Completion will be submitted to the NHVR as evidence of this deliverable.

Activity 2 – Public Transport Safety Workshop

Scope

City 2 Sea Landscapes will engage an external provider to host a workshop for small local businesses in the Gippsland area (landscapers, tradespeople, etc) on heavy vehicle and road transport safety. The external providers will be Owen Corey and or Graham Agnew from HSE global. City 2 Sea Landscapes will promote the workshop to other small local businesses to allow them to attend free of charge. Other stakeholders including NHVR will be invited to attend. A list of at least 30 attendee’s will be provided to the NHVR at least 14 days prior to the workshop. The attendee’s will operate in or with in the transport industry, and will include landscapers.

Details

The aim of the workshop will be to raise awareness of transport safety risks within the local community amongst similar size and types of businesses. The event will focus on emphasising important safety messages regarding fatigue, speed, mass, dimension, load restraint and vehicle roadworthiness within road transport and the practical steps that small businesses can take to comply with the HVNL. A further aim of the workshop will be to promote a cooperative and consultative relationship between industry and regulator.

The workshop will be promoted in the local newspaper and on social media to encourage participation. City 2 Sea employees will attend as part of the workshop.

Timeframe

The activity will be completed within 12 months of acceptance of this enforceable undertaking, subject to COVID-19 restrictions.

Outcome

The objective of this activity is to promote awareness of heavy vehicle safety amongst small businesses within the local community.

Costs

\$6,000

Output

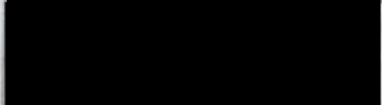

A copy of promotional material, photos of workshop and attendance list will be submitted to the NHVR as evidence of this deliverable.

43. The total estimated value of the undertaking is \$7,120.

Part 4 Offer of undertaking


Executed as an Undertaking

Executed by City 2 Sea Landscapes ABN: 37 620 872 675 pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

	
Signature of Director	Signature of Director/Company Secretary
	
Name of Director (print)	Name of Director/Company Secretary (print)
4/4/22 Date: Click or tap to enter a date.	Date: 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:


Signature of Chief Executive Officer
Sal Petrocchio
Name of Chief Executive Officer (print)
10/05/2022 Date: Click or tap to enter a date.