



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

Trojan Transport Services Pty Ltd



Part 1 Executive summary

Section 1 Agreed actions

1. Trojan Transport Services Pty Ltd [REDACTED] (**Trojan**) agrees to undertake the following actions:
 - a. To arrange for Trojan's management personnel to undertake a Chain of Responsibility information and awareness seminar;
 - b. To review and further develop, with the assistance of an external service provider, Trojan's policies, working procedures and instruction manuals relating to compliance with HVNL dimension requirements;
 - c. To arrange for external accredited training for Trojan's load planners and drivers on their Chain of Responsibility obligations;
 - d. To conduct internal reviews at 6 and 12 months after the date of acceptance of this undertaking;
 - e. To produce of a toolbox talk for public dissemination; and
 - f. To conduct a bi-annual toolbox talk on dimension requirements under the HVNL.

Section 2 Total cost of actions

2. The total cost of the actions which Trojan will undertake is \$15,400 (inclusive of GST).

Part 2 General information

Section 1 Purpose

3. 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

4. The commitments in this enforceable undertaking are offered to the NHVR by Trojan Transport Services Pty Ltd [REDACTED]
5. 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:	Proprietary company limited by shares
Type of business:	Logistics and transport services
Commencement of entity:	[REDACTED]
Number of workers:	[REDACTED]
Products and/or services:	Logistics and transport services

Details of the alleged contravention

6. It is alleged that on 13 December 2023 at Sirius Road, Port Botany, Trojan Transport Services Pty Ltd permitted the driver of heavy vehicle combination bearing registration [REDACTED] (NSW) towing trailer [REDACTED] (Qld) loaded with a water recycling truck on a flat rack without ensuring that it complied with the applicable dimension requirements, namely that the vehicle exceeded the prescribed height limit of 4.30 metres contrary to section 102(1)(b)(iii) of the HVNL.

Details of the events surrounding the alleged contravention

7. It is alleged that on 13 December 2023, at Sirius Road in Port Botany, Trojan permitted a driver employed by Trojan to drive a heavy vehicle without ensuring that it complied with the applicable dimension requirements under section 102(1)(b)(iii) of the HVNL (**the incident**).
8. The vehicle which was the subject of the incident was a heavy vehicle combination bearing the registration [REDACTED] (NSW) which was towing a trailer bearing the registration [REDACTED] (QLD). This trailer was loaded with a water recycling truck on a flat rack.
9. Upon inspection, the height of the trailer/cargo was detected to be 5.17 metres. The height alleged is 5.14 metres.
10. As such, it is alleged that the height limit was exceeded by 0.84 metres/840 millimetres.
11. Trojan acknowledges that it has a prosecution record in respect of a number of offences during the period 15 April 2013-5 May 2021. Trojan submits that this prosecution record does not suggest that Trojan is not a suitable candidate for an EU. Trojan observes that it has not been prosecuted during the approximately 2 years and 8 months since the last prosecution in May 2021 and submits that Trojan's safety performance during this period is due to the significant work that it has put into enhancing its HVNL safety and compliance frameworks during that period. Trojan further submits that this demonstrates that Trojan is a suitable candidate for an EU, having a renewed commitment to safety and a demonstrated track record of performance leading up to this incident.
12. Further, since the incident, Trojan has obtained a Permit for the carriage of oversize/overmass loads of the same kind and along the same route as gave rise to the incident, in fact, with a much higher height limit than the alleged contravention – meaning that the risk of a similar incident occurring has been effectively mitigated.

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

13. There were no injuries or financial loss that arose as a result of the alleged contravention.
14. Shortly after the incident, Trojan applied to and was issued with a Permit for carriage of oversize/overmass cargo on the route which was the subject of the incident. As such, it does not appear that there was any actual immediate risk of damage to any overhead road infrastructure arising from the alleged contravention.

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

15. A Court Attendance Notice dated 6 March 2024 was issued by the Local Court of NSW in respect of the alleged contravention.

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

16. Trojan has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance.
17. Trojan's existing transport safety management system at the workplace is supported by the following procedures and documents:
 - a. General work health and safety policies and practices
 - b. NHVAS mass and fatigue accreditation – Trojan has been accredited in these modules for approximately 15 years. Accreditation covers off areas of risk assessment, control, documentation, assurance and reporting
 - c. Drivers' Handbook under NHVAS mass and fatigue modules
 - d. Two yearly auditing of NHVAS standards
 - e. Oversize/Overmass Permit allowing the carriage of loads up to a height of 5.98 metres (so, significantly higher than the 5.14 meter height the subject of the alleged contravention), meaning that the risk of a similar incident occurring has been effectively mitigated.
18. Trojan's existing transport safety management system is audited every two years as part of accreditation in the NHVAS mass and fatigue modules.

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

19. Consultation has been undertaken regarding the proposed EU within Trojan's leadership, senior management team and work health and safety team in relation to the circumstances leading up to the incident, the circumstances of the incident, the need to review the above measures to ensure that they are understood, being properly implemented and effective and, if not, any further measures required. These consultations have been led by the State Manager – NSW (the State in which the incident occurred) and the lead Work Health & Safety manager – NSW.

Section 3 Statements

Statement of assurance

20. Trojan 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 undertakings.

Statement of regret

21. Trojan regrets that the incident of 13 December 2023 occurred and is committed to ensuring it does not re-occur.
22. Trojan does not merely regret that the incident was detected. Trojan does not seek to breach the law in order to reduce its operating costs or obtain some other commercial competitive advantage. Trojan has a pre-existing commitment to worker and public safety and regrets that, in the circumstances, this incident was not detected before the vehicle commenced its journey.

Statement of ability to comply

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

Statement granting permission to use

24. Trojan 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. The defendant has *not* been the subject of an undertaking from another statutory body (including but not limited to Work Health and Safety, local or state-based statutory bodies).

Section 4 Acknowledgement

26. Trojan acknowledges that the NHVR alleges that the NHVR has alleged that Trojan has contravened section 102(1)(b)(iii) of the HVNL.
27. The alleged contraventions are taken very seriously by Trojan, its Directors and senior management, who are committed to providing:
- a safe and healthy workplace; and
 - to conducting 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)

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. Trojan 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
Trojan obtained an Oversize/Overmass Permit for the carriage of the same types of overheight cargos along the same route as gave rise to the incident. The Permit permits loads of up to 5.98 metres – Permit [REDACTED] dated 4 March 2024	
Planners / Schedulers accredited training modules – TLIF0006 'Administer a Fatigue Risk Management System' / TLIF0014 'Monitor the safety of transport activities (Chain of Responsibility)' - Completed 17/5/2024 - 4 staff (PENTRANS CONSULTING)	\$1,400
Drivers accredited training modules – TLIF0005 'Fatigue Risk Management Systems' 18/5/2024 – 8 drivers (PENTRANS CONSULTING)	\$2,400
Trojan has provided all drivers and forklift operators involved in the loading, carriage and unloading of oversize loads (such as the one the subject of the incident) with external training with an accredited training provider on their Chain of Responsibility obligations in relation to the loading and unloading of goods/cargo - 'TLID0015 Load and Unload Goods/Cargo'. This training was delivered by Pentrans Consulting on 3/08/2024).	\$4,900

Description	\$ Amount
Trojan has provided the Compliance Manger/Transport Manager – Compliance with training TLIF0007 ‘Manage a fatigue risk management system’/ TLIF4066 ‘Implement and supervise transport regulations compliance systems’. This training was delivered by Pentrans Consulting on 26/07/2024.	
Total cost	\$8,700

Section 7 Acknowledgement of publication

Trojan 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

31. Trojan 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

32. Trojan is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
33. Trojan 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

34. Trojan 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 Trojan. This information will be disseminated through:
- For internal employees, records kept in dedicated hard/softcopy workspaces;
 - Communication of records to external contractors and sub-contractors;
 - Toolbox talks, both internally and externally; and
 - All email correspondence captured through the document management system.

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

35. Trojan is committed to participating constructively in all compliance monitoring activities of the EU.
36. Trojan acknowledges that responsibility for demonstrating compliance with the undertaking rests with Trojan and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
37. 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

38. Trojan 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

39. As part of this enforceable undertaking, Trojan aims to deliver strategies that focus on benefits to:
- a. drivers and parties within the Chain of Responsibility; and
 - b. the transport industry and the broader community.
40. Trojan intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Trojan 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 information and awareness training session for Trojan management personnel
Scope
Management personnel at Trojan will undertake accredited CoR training ‘TLIF4066 Implement and supervise transport regulations compliance system’ and ‘TLIF0009 Ensure the Safety of Transport Activities’.
Details
The information and awareness session will be presented in-person (for attendees in Sydney) and online (for attendees in other jurisdictions, in an active format that permits and encourages interaction and engagement by participants. That is, the session is not intended to be a passive ‘information only’ session. The session will cover off executive and management duties and responsibilities, required business frameworks for CoR safety assurance, commonly encountered friction points or road-blocks experienced by businesses in developing and implementing required practices and information on industry best practice (e.g. drawn from Master Code, NHVR regulatory advice notes and reported and unreported court outcomes).
Timeframe
Within one month of the date of acceptance of this undertaking.
Outcome
Trojan’s management team will have the necessary knowledge and skills to identify and act on their CoR obligations under the HVNL, including in relation to the development, implementation and oversight of safety management practices to comply with dimension requirements.
Costs
\$1,650 (inclusive of GST) estimated external consultant’s costs.
Output
Trojan Transport Services Pty Ltd will provide the NHVR with: <ul style="list-style-type: none"> • course attendance records for management personnel; • details of the external service provider to be engaged; • a full list of Trojan’s staff (including positions held); and • proof of the costs incurred (e.g. invoices).



Activity 2 – Review and further development of policies, working procedures and instruction manuals relating to dimension compliance

Scope

Trojan, with the assistance of an external service provider, will review and further develop its policies, working procedures and instruction manuals relating to compliance with HVNL dimension requirements.

Details

As part of its review, Trojan is committed to:

- reviewing and further developing its policies, working procedures and instruction manuals relating to compliance with HVNL dimension requirements to identify any existing gaps and design and implement any additional required remedial measures – specifically, Trojan will develop and implement enhanced practices around load planning and dimension verification;
- amending those documents upon any update to the HVNL;
- conducting a bi-annual and annual review (see ‘Activity 4’) of its policies, working procedures and instruction manuals to ensure that each reflects best practice and to identify any areas of possible improvement;
- to ensure that its policies, procedures and instructions are easily accessible to all internal stakeholders including management personnel, load planners and drivers, as well as external stakeholders such as sub-contractors (whether that be in hard copy at sites/vehicles or online); and
- requiring all external contractors to ensure compliance with dimension requirements.

Timeframe

Within 6 months of the date of acceptance of this undertaking.

Outcome

To ensure that Trojan’s policies and procedures properly address in particular the risks arising from overdimension incidents and reflect working practices to prevent such risks from arising and/or incidents occurring and ensuring that such practices remain up to date and appropriate.

Costs

\$8,250 (inclusive of GST) estimated external consultant’s costs.

Output

Trojan will provide any updated policies, working procedures and instruction manuals to the NHVR. Additionally, Trojan will provide the NHVR with:

- details of any external service providers engaged; and
- proof of the costs incurred (e.g. invoices).

Activity 3 – System assurance: internal audit/review at 6 and 12 months

Scope

Management personnel at Trojan will undertake an internal review of Trojan’s systems and practices, including its policies, procedures and instructions.

Details

The internal reviews will seek and consider the following:

- a review of Trojan’s amended policies, procedures and instructions themselves;
- a review of the *implementation* of Trojan’s amended policies, procedures and instructions and whether they have been implemented effectively in practice; and

Activity 3 – System assurance: internal audit/review at 6 and 12 months

- feedback from various internal stakeholders/Chain of Responsibility participants, including management, load planners and drivers on the effectiveness of policies, procedures and instructions.

Trojan is committed to taking the necessary action to remedy any deficiencies identified by the internal review process.

Internal cost is estimated at \$10,000 (\$5,000 per internal review) – not included in the total cost of this EU, but provided for information purposes.

Timeframe

After 6 and 12 months from the date of acceptance of this enforceable undertaking.

Outcome

The desired outcome will be to ensure that any amendments to Trojan’s policies, procedures and instructions have been and remain understood, properly implemented, followed and effective, on an ongoing basis.

Costs

\$0

Output

Trojan will provide the outcomes of its internal reviews to the NHVR, as well as copies of all policies, procedures etc. which are updated as a result of these reviews (preferably with notations of what was updated and when).

Activity 4 – Production of a toolbox talk for public dissemination

Scope

Trojan, in consultation with external consultants, will create a toolbox talk consisting of materials and speaking notes. These materials and notes will be made available to the public/wider trucking community.

Details

The toolbox talk will focus primarily on:

- load planning;
- over-dimension management; and
- dimension compliance checks and troubleshooting.

Timeframe

Within 9 months after the date of acceptance of this undertaking (e.g. so that the toolbox talk materials can include matters and learnings arising from Activities 2, 3 and 4 above).

Outcome

The primary purpose of this activity is to educate and inform the wider trucking community about the importance of compliance with HVNL dimension requirements. Producing these materials at no cost to the community will ensure that this important message is picked up and shared by others, as well as forming an ongoing training and awareness resource for Trojan and its workers.

Trojan will disseminate its toolbox talk materials by:

- putting them on its website;
- posting about them on social media;
- providing them on request; and
- telling attendees at its toolbox talk (see ‘Activity 6’) about them and having them available for dissemination at those events.

Costs



Activity 4 – Production of a toolbox talk for public dissemination

\$5,500 (inclusive of GST) estimated external consultant's costs.

Output

Trojan will provide to the NHVR:

- copies of the toolbox materials developed;
- evidence that the toolbox talk has been disseminated to public/industry (e.g. website/social media posts);
- details of any external service provider engaged; and
- proof of the costs incurred (e.g. invoices).

Activity 5 – Toolbox talk to be held every 6 months on dimension requirements under the HVNL

Scope

Trojan will conduct a bi-annual toolbox talk with the aim of educating employee attendees on the risks arising from over-dimension vehicles and Trojan's working practices to prevent such risks and incidents from occurring. This toolbox talk will form part of Trojan's existing schedule of such talks on this and other safety issues.

Details

Trojan will conduct a periodic toolbox talk focussing on dimension risks and safety. Emphasis will be placed on the importance of HVNL dimension requirements and how each attendee can play their part in ensuring compliance and safety in accordance with Trojan's working practices dedicated to preventing over-dimension risks and incidents from arising.

Internal cost is estimated at \$4,000 (\$2,000 per toolbox talk) – not included in the total cost of this EU, but provided for information purposes.

Timeframe

Bi-annually (every 6 months) for the duration of this undertaking.

Outcome

To educate workers on the risks arising from and importance of complying with dimension requirements under the HVNL.

Costs

\$0

Output

Trojan will provide the to the NHVR:

- the toolbox talk information materials and attendee list after the delivery of each of these dedicated toolbox talk sessions; and
- evidence that employees have been made aware of the biannual toolbox talks (e.g. newsletters, meeting minutes, website or social media posts).

41. The total estimated value of the undertaking is \$15,400 (inclusive of GST).



