



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

Country Wide Asphalt Pty Ltd

ABN: 70 630 550 239

Part 1 Executive summary

Section 1 Agreed actions.

1. Country Wide Asphalt Pty Ltd (**Country Wide Asphalt**) has agreed to implement 3 broad and proactive actions focused on improving compliance with internal mass and HVNL requirements and improving driver competency across the transport industry.
2. **Action 1 involves – Improving internal compliance.**
 - a. **New Company Policy and HV Management Plan** - Following this initial training update, an external consultant was engaged to conduct a gap analysis of the company’s COR Policy and HV Management Plan. The COR Policy and HV Management Plan will be finalised and rolled out by 31 May 2024.
 - b. **Truck Scales Installations** - Scales for Country Wide Asphalt owned trucks have been organised to be installed. Each unit costs approximately \$4,000 per truck and will have gauges that allows the operator and loader to know when the truck is at its maximum legal weight. Once rolled out and trained on how to use them we will roll out the same at the Wodonga depot. (1 truck fitted with the remaining trucks to be fitted by April 2024)
3. **Action 2 involves - Industry participation and interface improvement outcomes.**
 - a. **NHVR National Accreditation Application** – Country Wide Asphalt will meet the requirements to be able to apply for membership to the NHVR Mass Accreditation Scheme.
 - b. **Internal and external compliance and industry interface** - The Company has committed to commence sourcing candidates for a new role (**New Resource**) who will be accountable for quality, compliance and surveillance for the northern operations and subcontractor related works (estimated \$110k annual salary). The role is committed to be permanently filled by June 2024. Countrywide will meet the requirements for it to be able to apply for membership of the National Heavy Vehicle Accreditation Scheme, utilising the New Resource for compliance and quality.
4. **Action 3 involves - Community Beneficial project delivering transport safety outcomes within the community.**
 - a. Country Wide Asphalt will make a donation to the RYDA education program delivered by Road Safety Education Ltd (RSE). This is intended to support the rollout of a road safety educational program for Year 11 students across the country.
 - b. Country Wide Asphalt will also make a donation to Road Trauma Support Group NSW, an organisation that provides specialist grief counselling, peer support and long-term care to the loved ones of people who have died in a road crash.

Section 2 Total cost of actions.

5. The estimated total value of the undertakings is \$144,500.00
6. The cost to conduct Activities 1-2 is estimated to be: \$27,000.00
7. The cost to conduct Activity 3 is estimated to be: \$110,000.00.
8. The cost to conduct Activities 4-5 is estimated to be: \$7,500.00.

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 Country Wide Asphalt Pty Ltd (**Country Wide Asphalt**).
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 parties from

the date it is given.

Details of the person proposing the undertaking:

Registered address:	[REDACTED]
Postal address:	As above
Telephone:	[REDACTED]
Email address:	[REDACTED]
Legal structure:	Australian Proprietary Company
Type of business:	Road Surfacing
Commencement of entity:	2018
Number of workers:	42
Products and/or services:	Bitumen Sealing, Stabilisation

Details of the alleged contravention

12. It is alleged by the National Heavy Vehicle Regulator (NHVR) that on the 21st of December 2022, Country Wide Asphalt failed to comply with the mass requirements as required by Section 96(1)(c) of the HVNL.

Details of the events surrounding the alleged contravention

13. The NHVR alleges that on 21st December 2022 at Dubbo in the state of New South Wales, Country Wide Asphalt did without reasonable excuse permit another person to drive a heavy vehicle which was on hire, namely a white Volvo FM12 Tipper bearing NSW registration [REDACTED], on a road, namely Newell Highway, and did fail to ensure that the heavy vehicle, the heavy components and load complied with the mass requirements as prescribed by the heavy vehicle (Mass, Dimension and Loading) National Regulation (NSW), namely the assessed mass of the Heavy Vehicles was 20 tonnes or a mass equaling 121% of the maximum mass permitted, thereby committing a substantial risk breach.
14. Statutory Provision Describing Offence: Section 96(1)(c) Heavy Vehicle National Law. Law Part Code: 93386

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

15. There were no injuries that arose from the alleged contravention. The Driver admitted guilt and had also been fined and paid that fine.

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

16. Country Wide Asphalt received a court attendance notice in respect of the drive or permit others to drive heavy vehicle not complying with mass requirements that occurred on the 21 December 2022 in relation to a hearing before the Dubbo Local Court of New South Wales on 7 August 2023 at 09:30 am. Those proceedings have been adjourned pending consideration by the NHVR of this EU.

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

17. Country Wide Asphalt has an established PAS 99:2012 Management System in place which encompasses risk management, identification, analysis, management of critical risks involved in our activities and review of the effectiveness of the controls in place. Chain of Responsibility compliance and Driver obligations are included in the management system however further details pertaining to the COR roles and responsibilities or the procedure for checking COR compliance needed to be added. This will be updated and improved.
18. Country Wide Asphalt is ISO Certified for Safety, Quality and Environmental Management which include an annual audit by ISO accredited auditors IMSM PTY LTD
- a. ISO 9001:2015

- b. ISO 14001:2015
 - c. ISO 45001:2018
19. Countrywide uses a fleet of 5 heavy vehicles, 42 staff (20 staff who hold Medium Ridged, Heavy Ridged or Multi-Combination Truck licenses) and 25 contractors. All Country Wide Asphalt truck drivers have met the relevant State criteria for training, obtaining and holding valid licenses and are only permitted to drive heavy vehicles with the correct corresponding license types.
20. Safety systems and ISO compliance in relation to the COR compliance includes:
- a. Management system audits and annual certification
 - b. Fatigue and Driver Diary including manager audits.
 - c. Designated responsibility with management and supervisors for HVNL compliance across the regional areas.
 - d. Training for drivers, loaders, schedulers, and contractors concerning their responsibilities.
 - e. Weight systems and air-bag management systems to provide operators with an immediate indication of vehicle weight. The 4 company owned trucks will be fitted with the systems by the end of FY24.

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

21. In proposing this EU, there has been consultation between the company owner and the senior leadership team to confirm:
- a. Roles of Truck and Loader Operators, Supervisors, Regional Managers, Operations manager, General Manager, Finance team and CFO, Company owner.
 - b. Toolbox for all staff on the COR and relevant actions pertaining to the content of this EU have been communicated and consulted on.

In formulating the EU there has been communication and consultation within the company in respect of the outcomes proposed by the EU.

Section 3 Statements

Statement of assurance

22. Country Wide Asphalt confirms that it is committed to complying with our obligations under the HVNL and ensuring, so far as is reasonably practicable, the health and safety of all our workers and others that have the potential to be affected by our business or undertakings.

Statement of regret

23. Country Wide Asphalt regrets that the incident on 21 December 2022 subject to the alleged contravention occurred.

Statement of ability to comply.

24. Country Wide Asphalt has the financial and operational capacity to comply with the Terms of this enforceable undertaking.

Statement granting permission to use

25. Country Wide Asphalt grants the NHVR permission to use any documents, policies and procedures developed because of this enforceable undertaking for the purpose of training and development by the NHVR.

Statement of prior undertakings

26. Country Wide Asphalt has no undertakings from other statutory bodies in NSW, Victoria or Nationally.

Section 4 Acknowledgement

27. Country Wide Asphalt acknowledges that the NHVR alleges that Country Wide Asphalt has contravened Section 96(1)(c) Heavy Vehicle National Law. Law Part Code: 93386

28. The alleged contravention is taken very seriously by Country Wide Asphalt, it’s Director and Senior Management, who are committed to providing a safe workplace to conduct our 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 because 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 because of the alleged contravention.

Section 6 Rectifications made

31. Country Wide Asphalt 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
<p>Pinnacle E-Training on Chain of Responsibility (COR Training) was completed by operational management staff in October 2023 to assist with the review of HVNL and company documentation and policies. The operational management staff that undertook the COR Training above were [REDACTED] (Production and Logistics Co-ordinator), [REDACTED] (Regional Manager VIC & Southern NSW) and [REDACTED] (Regional Manager NSW).</p> <p>The COR Training has provided the operational management staff identified above with the skills and knowledge to:</p> <ul style="list-style-type: none"> Identify, apply, and follow Chain of Responsibility (COR) legislation, regulations and workplace procedures in relation to heavy vehicles as they apply to an individual’s own job role. Discuss current COR Case Law and Penalties. Provide an opportunity to ask questions specific to their job role / business / industry or circumstance. Overview of current safety duties. Understand 6 Key obligations of the Heavy Vehicle National Law (HVNL). 	<p>\$1,200.00 – COR Training for x3 operational management staff</p>
<p>In addition, there has been comprehensive training completed by all staff members identified in Annexure A in TLIF0009 - Ensure the safety of transport activities (Chain of Responsibility), provided by Australian Onsite Training.</p> <p>This is the latest nationally accredited Unit of Competency. This Unit of Competency covers the skills and knowledge required to ensure the safety of transport activities and to apply Chain of Responsibility obligations as defined by the Heavy Vehicle</p>	<p>\$10,750.00 – Estimated cost of training for the staff members identified in Annexure A.</p>

Description	\$ Amount
<p>National Law (HVNL) or applicable State/Territory law and regulations.</p> <p>The TLIF0009 - Ensure the safety of transport activities (Chain of Responsibility) training, provided by Australian Onsite Training, has provided our staff with the skills and knowledge to:</p> <ul style="list-style-type: none"> Identify, apply, and follow Chain of Responsibility (COR) legislation, regulations and workplace procedures in relation to heavy vehicles as they apply to an individual's own job role. Discuss current COR Case Law and Penalties. Provide an opportunity to ask questions specific to their job role / business / industry or circumstance. Overview of current safety duties. Understand 6 Key obligations of the Heavy Vehicle National Law (HVNL). 	
Estimated total cost	\$11,950.00

Section 7 Acknowledgement of publication

32. Country Wide Asphalt 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 behavior that led to the alleged contravention has ceased and will not reoccur

33. Country Wide Asphalt is committed to ensuring that the behavior 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. Country Wide Asphalt is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
35. Country Wide Asphalt 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. Country Wide Asphalt 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 Country Wide Asphalt. This information will be

disseminated through:

- a. Briefings to business owner and senior management.
- b. Disclosure and lesson learned information provided to primary clients as required for disclosure of convictions and enforceable undertakings.
- c. For internal employees: Records kept in dedicated workspace in the company Dropbox documentation system, prestart checklists via the mobile safety system “Smarter Safety” and “Done Safe” (future system transitioning), Toolbox talks by Supervisors and Managers.
- d. For external contractors and sub-contractors: communication provided by contract on-boarding, prestart toolboxes, inductions and regular audits/surveillance.
- e. All email correspondence captured through document management system, Dropbox and mobile safety app.

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

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

- 40. Country Wide Asphalt 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 because 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, Country Wide Asphalt aims to deliver strategies that focus on benefits to:
 - a. drivers, loaders, schedulers, packers, contractors and parties within the chain of responsibility of Country Wide Asphalt.
 - b. the Country Wide Asphalt business, our partners and clients
 - c. the transport industry and the broader community.
- 42. Country Wide Asphalt intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Country Wide Asphalt workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

Activities

Activity 1 – New Company Policy and HV Management Plan
Scope
1. Country Wide Asphalt to engage an external consultant by the name of [REDACTED] to conduct a gap analysis of the company’s COR Policy and HV Management Plan (Gap Analysis). 2. Country Wide Asphalt will roll out a revised COR Policy and HV Management Plan by 31 May 2024.
Details
As above – An external consultant will be engaged by Country Wide Asphalt to conduct a Gap Analysis of the company’s COR Policy and HV Management Plan.

Timeframe
Country Wide Asphalt will have implemented and will send a copy of the policy changes that have been made to the NHVR by the 12 August 2024.
Outcome
Country Wide Asphalt will have an independently reviewed COR Policy and HV Management Plan in order to ensure better and safer outcomes.
Costs
>\$7000.00 for external consultant's Gap Analysis
Output
<ol style="list-style-type: none"> 1. Country Wide Asphalt will provide the NHVR with evidence of the engagement of an external consultant to conduct the Gap Analysis within 28 days of the date of this EU. 2. Country Wide Asphalt will provide the NHVR with an invoice received from the external consultant in respect of its fees for the Gap Analysis as well as a remittance confirming the fees of the external consultant have been paid within 28 days of the date of this EU. 3. Country Wide Asphalt will provide the NHVR with a copy of the Gap Analysis undertaken in connection with the COR Policy within 28 days of the date of this EU. 4. Country Wide Asphalt will provide the NHVR with a copy of the updated COR Policy prepared in response to the Gap Analysis within 28 days of the date of this EU. 5. Country Wide Asphalt will provide the NHVR with a copy of the Gap Analysis undertaken in connection with the HV Management Plan by 31 May 2024. 6. Country Wide Asphalt will provide the NHVR with a copy of the updated HV Management Plan prepared in response to the Gap Analysis by 31 May 2024. 7. By 12 July 2024, Country Wide Asphalt will implement all recommended changes identified by the Gap Analysis in connection with both the COR Policy and HV Management Plan. 8. By 12 August 2024, Country Wide Asphalt will send a copy of the policy changes that have been made to the NHVR.

Activity 2 – Truck Scales Installations, Utilisation and Maintenance
Scope
Country Wide Asphalt will install scales on its own trucks and long-term hires that are utilised and maintained by the company.
Details
The installation of scales on the trucks is required to help all drivers and loaders in assessing the weight and compliance of all loads. In circumstances where materials can change and various loads removed or added in a trip, it makes more sense to place the scales on the trucks rather than the loaders. Training on the use and maintenance of the scales will also be rolled out.
Timeframe
Complete installation on all trucks is set to be completed by 30 April 2024
Outcome
5 trucks (1 owned, 4 long term hire) will be fitted with scales to improve the monitoring of compliance and load weight detail. (@ \$4000.00 per truck)

1. [REDACTED] – (Note: installation complete)
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. Additional Truck – TBC due to workshop status

Costs

\$20,000.00

Output

- Country Wide Asphalt will provide to NHVR:
1. By 31 January 2024, evidence of the engagement of a contractor to install scales in one of its long term hire truck being 1 in total [REDACTED] by providing a copy of any invoice received from the contractor together with a remittance for the payment of that invoice by Country Wide Asphalt
 2. By 30 April 2024, certificates of scale installation in respect of each of its own and any long term hires, being 4 trucks in total, such certificates to identify the make, model and registration number of each truck that has had a scale installed.

Activity 3 – Internal and External Compliance and Industry Interface

Scope

Sourcing candidates for a new role (New Resource) who will be based in Dubbo and in conjunction with project engineering responsibilities will also be accountable for site quality, compliance and surveillance for the northern operations and subcontractor related works (estimated \$110k annual salary). The role is committed to be permanently filled by June 2024.

Details

- The New Resource will be responsible for:
- Compliance with Country Wide Asphalt policies, management plans, processes and procedures
 - Monitor, review and develop all procedures, systems, processes, and training related to HVNL requirements.
 - Provide HVNL technical support and input to all areas of the business and industry representation.
 - Assisting with investigations and lessons learned.
 - Liaise with authorities and relevant parties pertaining to HVNL compliance and improvement.
 - Conduct audits and toolboxes

Timeframe

June 2024

Outcome

To align compliance and specific systems with the NHVAS process, improve the accountability and success of wider business learning, sustainable benefits through education and on-site participation, company alignment and compliance that is comparable with the NHVAS and industry.

Costs

\$110,000.00 - estimated annual salary cost for the New Resource.

Output

1. Within 28 days of this EU, Country Wide Asphalt will provide NHVR with a copy of the position description for the New Resource.
2. Within 14 days of the New Resource commencing, Country Wide Asphalt will provide NHVR with evidence of the engagement of the New Resource, including providing NHVR with a copy of any correspondence from the

New Resource (appropriately redacted for confidentiality) communicating acceptance of the role with Country Wide Asphalt.

Activity 4 – Community Beneficial Outcomes Within the Community: Donation to RYDA

Scope

Donation of \$2,500.00 to RYDA (RSE) education program in the Western NSW region.

Details

Country Wide Asphalt will make a donation to the RYDA education program delivered by Road Safety Education Ltd (RSE). This is intended to support the rollout of a road safety educational program for Year 11 students across the country.

Timeframe

July 2024

Outcome

There will be a donation to the RYDA education program delivered by RSE which provides workshop sessions to high school students aimed at enhancing their road safety.

The community benefits directly as a result of this enforced undertaking, the transparency and improvement with the company shared and the contributions of the enforcement to deliver tangible outcomes for the community.

Costs

\$2,500.00 –Donation to RYDA (RSE) education program

Output

By 14 July 2024, Country Wide Asphalt will pay the donation of \$2,500.00 to the RYDA (RSE) education program and by that date will provide evidence of the payment being made to the NHVR.

Activity 5 – Community Beneficial Outcomes Within the Community: Donation to Road Trauma Support Group NSW

Scope

Donation of \$5,000.00 to Road Trauma Support Group NSW.

Details

Country Wide Asphalt will make a donation to Road Trauma Support Group NSW to support their work as an organisation which provides specialist grief counselling, peer support and long-term care to the loved ones of people who have died in a road crash where another driver has been criminally charged. The organisation also advocates for positive change within this space.

Timeframe

July 2024

Outcome

There will be a donation made to Road Trauma Support Group NSW in respect of their work supporting road trauma victims and advocating for positive change.

The community benefits directly as a result of this enforced undertaking, the transparency and improvement with the company shared and the contributions of the enforcement to deliver tangible outcomes for the community.

Costs

\$5,000.00 – Donation to Road Trauma Support Group NSW

Output

By 14 July 2024, Country Wide Asphalt will pay the donation of \$5,000.00 to Road Trauma Support Group NSW and by that date will provide evidence of the payment being made to the NHVR.




43. The total estimated value of the undertaking is \$144,500.00.

Part 4 Offer of undertaking

Executed as an Undertaking


Country Wide Asphalt Pty Ltd ABN: 70 630 550 239

Executed by Country Wide Asphalt Pty Ltd ABN: 70 630 550 239 pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

	
Signature of Director	Signature of Director/Company Secretary
	Elim Chan
Name of Director (print)	Name of Director/Company Secretary (print)
Date: 4/03/2024	Date: 14 March 2024

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 Executive Director
Raymond Hassall
Name of Executive Director (print)
Date: 14 March 2024

Annexure A – Members of staff and management who have undertaken training on COR

