

# Enforceable Undertaking

## Chapter 10.1A

### Heavy Vehicle National Law

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

By

David Murphy

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## **Part 1 Executive summary**

### **Section 1 Agreed actions**

1. Northwest employees will undertake comprehensive training on Mass Training, HVNL legislation and Chain of Responsibility to ensure that everyone is trained and competent in understanding the new safety duty and due diligence obligations.
2. Northwest will review and implement a comprehensive Business Mass Management Operating System procedure for loading trucks correctly and ensuring that trucks are not overloaded in the future.
3. Northwest will apply for entry into the National Heavy Vehicle Accreditation Scheme.
4. Northwest will make a donation to a not-for-profit organisation (Australian Road Safety Foundation).
5. Training will be provided as soon as reasonably possible following the acceptance of the EU. The three-month period is to allow time for Northwest to implement these changes and apply for accreditation. If there are any delays, we will endeavour to disclose them to you.

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

6. Mass Training, HVNL legislation and Chain of Responsibility training - \$1,500.
7. Implementation of a comprehensive Business Mass Management Operating System - \$1,500.
8. National Heavy Vehicle Accreditation Scheme \$2,500.
9. Donation - \$2,000.

## **Part 2 General information**

### **Section 1 Purpose**

10. 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**

11. The commitments in this enforceable undertaking are offered to the NHVR by Northwest Recycling Centre Pty Ltd (Northwest).
12. 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:	Privately Owned Company
Type of business:	Agriculture Recycling
Commencement of entity:	31 October 2013
Number of workers:	10
Products and/or services:	Green Waste Collection & Green Waste Products

#### Details of the alleged contravention

13. On 6 April 2023, the director/manager of Northwest was driving a heavy vehicle (registration number [REDACTED] on the M1 Pacific Motorway in Mount White. Authorised officers of the National Heavy Vehicle Regulator (NHVR) observed the vehicle and promptly intercepted it for an inspection. Despite the estimated calculations that the load was within the legal load threshold, the load was overweight and determined to be a severe risk breach under section 96(1)(c) of the Heavy Vehicle National Law (HVNL). The director/manager believes that the recent rain may have increased the weight of the load.

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

14. Moisture was collected in some of our Green Waste Product following a major rain event.
15. This appears to have resulted in an increase in moisture content in the Green Waste Product, which increased the weight of our product and the overall assessed mass of the vehicle beyond what is normally permitted.

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

16. There were no injuries or financial loss that arose from the alleged breach.

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

17. The director/manager of Northwest received a summons to appear the Gosford Local Court on 12 July 2023.

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

18. Northwest does not have an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance.

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

19. There has been significant consultation within the Northwest management and leadership team to enable this Enforceable Undertaking submission to be prepared. These responses include:
- Meeting to discuss a thorough inspection process to check heavy weight limits.
  - Training and education to ensure compliance with the HVNL, Mass Management Training and Chain of Responsibility training for all staff/drivers.

### Section 3 Statements

#### Statement of assurance

20. Northwest confirms that the company, management, and all personnel are committed to complying with our obligations under the HVNL, and ensuring, so far as reasonably practical, the health and safety of all workers and other that have the potential to be affected by our business or undertaking.

#### Statement of regret

21. Northwest has the greatest regret for the truck overloading incident that occurred on the 6 April 2023. Our team is deeply embarrassed by the offence, and we are taking active steps to prevent similar incidences from occurring in the future, including to re-assess any weight/loads after major rain events.

#### Statement of ability to comply

22. Northwest has the financial and operational capacity to comply with the terms of this enforceable undertaking.

#### Statement granting permission to use

23. Northwest 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

24. Northwest has not been the subject of an undertaking from another statutory body.

### Section 4 Acknowledgement

25. Northwest acknowledges that the NHVR alleges that there was a contravention of section 96(1)(c) of the HVNL.
26. The alleged contraventions are taken very seriously by Northwest, its Directors, and Management, who are committed to providing a safe 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)

27. 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

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

### Section 6 Rectifications made

29. Northwest 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
Parked and unloaded the heavy vehicle until it was at the correct weight. Afterwards, Northwest sent two additional vehicles to delivery the Green Waste products safely.	Nil

Description	\$ Amount
To ensure across the board safety, the company as a whole agreed to the Enforceable Undertaking, which will provide training for all three heavy vehicle drivers employed with the company, and any other relevant staff.	1,500
<b>Total cost p.a.</b>	<b>1,500</b>

## Section 7 Acknowledgement of publication

30. Northwest 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. Northwest 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. Northwest is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
33. Northwest 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. Northwest 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 Northwest. This information will be disseminated through:
- For internal employees: Records kept in dedicated workspaces.
  - All email correspondence is captured through document management system.

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

35. Northwest is committed to participating constructively in all compliance monitoring activities of the EU.
36. Northwest acknowledges that responsibility for demonstrating compliance with the undertaking rests with Northwest 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. Northwest 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, Northwest aims to deliver strategies that focus on benefits to:
- drivers and parties within the chain of responsibility
  - the transport industry and the broader community.
40. Northwest intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train, and raise awareness among Northwest workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

### Activities

<b>Activity 1 – Comprehensive Training on HVNL Legislation and Requirements</b>
<b>Scope</b>
Northwest employees will undertake comprehensive training on Mass Training, HVNL legislation and Chain of Responsibility to ensure that everyone is trained and competent in understanding the new safety duty and due diligence obligations. Training will be provided by [REDACTED] from HVNL Support.
<b>Details</b>
The Proposed Courses Include:
<ol style="list-style-type: none"> <li>HVNL Chapter 1A training to ensure that those responsible for transport activities understand their obligations as parties in the chain of responsibility including executive offer due diligence obligations.</li> <li>HVNL Principal duties training to ensure that responsible parties and drivers understand their obligations related to Vehicle Safety Standards, Mass, Dimension, Loading, Driver Fatigue and Record Keeping.</li> <li>HVNL Allowable mass training to ensure that responsible parties understand how to determine allowable gross, axle and payload masses for various combinations.</li> </ol>
A quote has been obtained and costs have been incorporated into the costs set out in the EU.
<b>Timeframe</b>
Initial training will be provided within 3 months of the Enforceable Undertaking. If there are any delays, we will endeavour to disclose that to you as soon as possible.
<b>Outcome</b>
All three heavy vehicle drivers of Northwest (which includes the director/manager David Murphy) will undertake the training. If it is recommended by the trainer that the other staff also undertake the training, then this will also take place. Participants will develop a high level of understanding of the HVNL legislation, its requirements, and obligations. In addition, participants will have a greater understanding of Mass Training and Chain of Responsibility.
<b>Costs</b>
\$1,500.
<b>Output</b>
HVNL Training including, Mass Training, HVNL Compliance and HVNL Chapter 1a training to ensure that all participants have a thorough understanding of the HVNL.

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**Activity 1 – Comprehensive Training on HVNL Legislation and Requirements**

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A Certificate of Completion will be provided.

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**Activity 2 – Review & Implementation of Business Mass Management Operating Procedures**

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**Scope**

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Northwest will review and implement a comprehensive Business Mass Management Operating System procedure for loading trucks correctly and ensuring that trucks are not overloaded in the future. Training will be provided by [REDACTED] from HVNL Support.

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**Details**

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**Proposed Process:**

1. [REDACTED] will review the existing Mass Management System.
2. [REDACTED] will help Northwest to develop and document a new Mass Management System.
3. Northwest will implement those changes.
4. Proceed to Activity 3 – Application for Accreditation by an approved NHVAS auditor.

A quote has been obtained.

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**Timeframe**

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Northwest is aiming for three months as per the EU or as reasonably practicable. If there are any delays, we will endeavour to disclose that to you as soon as possible.

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**Outcome**

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Northwest will have more stringent mass management operating procedures in place. The benefits of implementing such a system will be threefold. Firstly, there will be improvements to productivity and efficiency. Secondly, there will be increased vehicle life and lower maintenance cost. Finally, there will be benefits to the community, which includes better and more consistent compliance with the road safety standards.

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**Costs**

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\$1,500.

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**Output**

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The implementation of a more optimal Mass Management Operating Procedure for all drivers, logistics teams and employees. The current system, new system, and policies developed as a result of this activity will be provided to the NHVR within 3 months of the Enforceable Undertaking.

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**Activity 3 – Apply for accreditation by an approved NHVAS auditor**

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**Scope**

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Northwest will apply for accreditation to ensure compliance with Mass Management Standards.

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**Details**

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Northwest will apply for accreditation to ensure compliance with Mass Management Standards. Northwest is aiming for three months as per the EU or as reasonably practicable. If there are any delays, we will endeavour to disclose that to you as soon as possible.

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**Timeframe**

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Within 3 months of the Enforceable Undertaking.

**Proposed Process:**

1. [REDACTED] will review the existing Mass Management System.
  2. [REDACTED] will help Northwest to develop and document a new Mass Management System.
  3. Northwest will implement those changes.
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**Activity 3 – Apply for accreditation by an approved NHVAS auditor**

4. Northwest will apply for accreditation through an approved NHVAS by an approved NHVAS auditor, namely, [REDACTED] for a total cost of ~~\$2,400~~— \$2,500.

**Outcome**

Enhanced compliance to ensure that Mass Management Standards are consistently met as part of the requirements for approval by an approved NHVR Registered Training Organisation.

**Costs**

Approximately \$2,500

**Output**

Accreditation ensuring industry leading Mass Management Standards are consistently met.

**Activity 4 – Donation to a Not-For-Profit Organisation**

**Scope**

David Murphy will make a donation to a not-for-profit organisation (Australian Road Safety Foundation).

**Details**

The Australian Road Safety Foundation (ARSF) is a not-for-profit organisation dedicated to reducing the impacts of road trauma and saving lives.

**Timeframe**

Within 3 months of the Enforceable Undertaking.

**Outcome**

Northwest intends donate to the ARSF to help a noble not-for-profit organisation aimed at mitigating the impact of road trauma.

**Costs**

\$2,000

**Output**

The ARSF launches national campaigns each year to educate road users on the important role that individuals play in reducing the impacts of road crashes and helping people impacted by road trauma. Northwest will provide a tax invoice of receipt of payment to be provided to the NHVR.


41. The total estimated value of the undertaking is ~~\$8,500~~— \$7,500.

## Part 4 Offer of undertaking

Executed as an Undertaking

Northwest Recycling Centre Pty Ltd ACN: 169 690 493

Executed by David Murphy

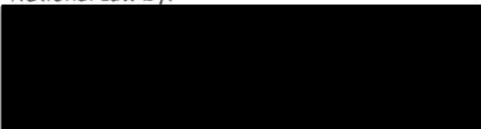
Signature of Director	Signature of Director/Company Secretary
 David Joseph Murphy Name of Director (print)	  Name of Director/Company Secretary (print)



Date: 21/09/2023	Date:
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## 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 Petrocitto	
Name of Chief Executive Officer (print)	
Date: 10/10/2023	