



Enforceable Undertaking

Chapter 10.1A

Heavy Vehicle National Law

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

By

Horsham Rural City Council

ABN: 37 019 724 765

Part 1 Executive summary

Section 1 Agreed actions

1. Horsham Rural City Council (**Council**) agrees to enter the Enforceable Undertaking and comply with the terms herein.
2. The National Heavy Vehicle Regulator (**NHVR**) consents to the undertaking and agrees to withdraw the charges against Council listed in the Magistrates' Court.

Section 2 Total cost of actions

3. The cost of the rectifications and undertaking is approximately \$30,000 - \$34,000.

Part 2 General information

Section 1 Purpose

4. 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

5. The commitments in this enforceable undertaking are offered to the NHVR by Council.
6. 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:	Per S14 LG Act 2020 – Body Corporate
Type of business:	Local Government
Commencement of entity:	N/A
Number of workers:	250
Products and/or services:	N/A

Details of the alleged contravention

7. On 7 July 2021, at Haven, a Council employee drove a heavy vehicle, namely a white 2008 Iveco Spreader, on a road without ensuring that the vehicle, its components and load, complied with the applicable mass requirements. Namely the steer axle of the vehicle exceeded the prescribed mass limit of 6.0 tonnes, by 1.60 tonnes on the steer, contrary to section 96(1)(c) of the *Heavy Vehicle National Law*

Details of the events surrounding the alleged contravention

8. Prior to Council's employee taking carriage of the subject vehicle, [REDACTED] loaded the truck via a front-end loader which had scales fitted to it. The front-end loader had collected a stock-pile

of material from a local quarry.

9. The vehicle's 2-axle drive group was within the allowable mass of 16,500 kgs, but the steer-axle limit exceeded the limit of 6 tonnes by approximately 1.6 tonnes.
10. The breach was not intentionally made by Council or its employee, but rather Council had temporarily hired a vehicle from a third party, of which incorrectly displayed on the door the tare and GVM mass limits for that vehicle. That being said, Council acknowledges that a breach of the relevant regulations has occurred.
11. The subject vehicle is not owned by Council.

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

12. 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

13. Council received a Summons 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

14. Council maintains an exemplary safety record and is renowned for its dedicated practice of proactive safety measures and continued compliance.
15. For example, in relation to the current circumstances, Council has fitted its front-end loaders used to load heavy trucks with routinely calibrated scales. Moreover, Council's medium rigid vehicles which carry loads that are difficult to judge the weight of have air bag pressure sensors indicating gross weight of the vehicles. At many sites where quarry materials are accessed, weighbridges are used to verify loads.
16. However, in relation to the current circumstances, Council's employee incorrectly followed the weight limits written on the hire vehicle's door panels. The weight limit written on the subject vehicle was not in fact referring to the *Heavy Vehicle National Law* as the employee had assumed. Though Council has provided load restraint training, it had not provided training on loading and weights, and as such [REDACTED] was not aware of the correct, legal weight limit. Council also acknowledges that the scales on its loader did not print a docket which contributed to this breach.
17. As a consequence of the above, the subject vehicle's steer axle exceeded the relevant weight limit by approximately 1.6 tonnes, in circumstances where the remaining axles were in compliance.

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

18. Council's fleet management team has consulted Council's CEO regarding the proposal of an EU, and agrees it is an appropriate measure to redress the issues arising from the alleged breach.

Section 3 Statements

Statement of assurance

19. Council is committed to complying with its obligations under the HVNL, with a foremost commitment to the health and safety of its employees and all of those that live, work and visit the municipality.

Statement of regret

20. Council deeply regrets its breach of the HVNL, and is committed to the implementation of further staff training in respect of that required and imposed by the HVNL.
21. While Council did not intentionally breach the HVNL, it accepts that the load on the vehicle overburdened the steer axle of the vehicle, and accepts that weight limits are set for a reason, and driver and community safety is the foremost consideration of the HVNL.

Statement of ability to comply

- 22. Council has the financial and operational capacity to make modifications to its fleet and training practices to ensure the mass requirements of the HVNL are adhered to, and that all loads carried shall be carried in a safe and secure manner.

Statement granting permission to use

- 23. Council grants permission to NHVR to use any document, policy or procedure developed as part of this enforceable undertaking.

Statement of prior undertakings

- 24. Council has not been the subject of any prior undertaking from any statutory body, nor the subject of any NHVR enforcement action.

Section 4 Acknowledgement

- 25. Council acknowledges that it has contravened section 96(1)(c) of the HVNL as alleged by the HVNR.

Section 5 Details of Injury or Illness

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

- 26. 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

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

Section 6 Rectifications made

- 28. Council is committed to ensuring it further develops systems that identify, assess and control risks and that promote continual improvement and as a result of the alleged contravention, the following opportunities for enhancement of processes have been undertaken:

Description	\$ Amount
Council’s group of heavy vehicle drivers were immediately directed to ensure their loads were well below limits, and to be weighed to confirm actual loads (empty and full) as soon as practicably possible. This was done by weighing at Council’s weighbridge at Dooen Landfill and a private weighbridge in Horsham’s industrial within the next 14-21 day period to ensure all of Council’s heavy vehicle 2 axle group and steer axle weight limits, were in compliance with the <i>National Heavy Vehicle Law</i> .	\$4,000
Total cost p.a.	

Section 7 Acknowledgement of publication

29. Council 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

30. Council is committed to ensuring that the behaviour that led to the alleged contravention has ceased and that it will take all reasonable steps to prevent recurrence.

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

31. Council is committed to the ongoing effective management of public risks associated with transport activities within its municipality.
32. Council has a commitment to ongoing continuous improvement in how it manages risks associated with its business operations, including the review of new technology where available.

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

33. Council is committed to disseminating information about the enforceable undertaking to employees within the chain of responsibility, including senior and operational management, health and safety management team, health and safety committees and health and safety representatives and employees of Council. The information will also be disseminated to relevant contractors and subcontractors where appropriate.

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

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

37. Council 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

38. As part of this enforceable undertaking, Council will deliver strategies that focus on benefits to drivers and parties within the chain of responsibility.

39. Council will achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Council's workforce and all parties within the chain of responsibility of the importance of compliance.

Activities

Activity 1 – Development of a Chain of Responsibility Management System, and development and delivery of extensive training course of Chain of Responsibility Obligations and of Vehicle Weight Limits

Scope

Council will engage accredited training provider, LATUS, to update its Chain of Responsibility Management System, and prepare and present a training program to Council's employees on all things, including awareness, knowledge and skills, relating to the chain of responsibility and the relevant legislation.

Details

Firstly, Council will engage LATUS to undertake a review of Council's CoR Management System and implement any appropriate changes rendering it fit for purpose. This will include a review of all CoR requirements such as:

- Mass Management & Control
- Load Restraint
- Dimensions
- Speed Control
- Fatigue Management
- Equipment Maintenance & Suitability
- Contractor management & Control
- Dangerous Goods
- Risk Assess
- Document Control
- Induction Program

In implementing any changes LATUS will rewrite all necessary areas to ensure that HRCC meet HVNL requirements under CoR.

LATUS will also develop a series of training programs to cover all aspects of Chain of Responsibility with an emphasis on:

- Mass;
- Dimensions;
- Load Restraint;
- Introduction & Induction to CoR (Managers)
- Introduction & Induction to CoR (Operators)
- Speed Control
- Fatigue Management
- Equipment Maintenance & Suitability
- Contractor management & Control
- Dangerous Goods
- Risk Assess
- Document Control

Finally, LATUS will deliver face to face training on site, in respect of the above programs, in two separate blocks as follows:

Activity 1 – Development of a Chain of Responsibility Management System, and development and delivery of extensive training course of Chain of Responsibility Obligations and of Vehicle Weight Limits

- Mass Training will be delivered to an estimated 120 participants from both internal and external sources including local earth moving contractors and employees of neighbouring councils. These will be delivered in groups of approximately 15 people to ensure maximum engagement.
 - Therefore 8 X 4-hour training sessions
- Load Restraint will be delivered to internal HRCC personnel within Council’s operations team, being approximately 30 participants. These sessions will be delivered to groups of 15 people, to ensure maximum engagement.
 - Therefore 2 X 4-hour training sessions

All participants in units will be formally assessed and certified as competent or not yet competent. These staff members will receive paperwork confirming their competency, which will be provided to the NHVR.

The training will be delivered in 2 X 1-week blocks.

- 1st block will cover
 - Mass (8 X 4 hours)
 - Load Restraint (2 X 4 hours)
- 2nd block will cover
 - Introduction & Induction to CoR (Managers) (2 hours)
 - Introduction & Induction to CoR (Operators) (2 hours)
 - Dimensions (3 hours)
 - Speed Control (3 hours)
 - Fatigue Management (3 hours)
 - Equipment Maintenance & Suitability (3 hours)
 - Dangerous Goods (3 hours)
 - Risk Assess (2 hours)
 - Document Control (2 hours)

Relevantly, this will ensure all employees who partake in this area of practice will be appropriately trained and have a significant understanding of and therefore comply with CoR legislation, and the safety standards that flow.

Timeframe

By 30 November 2022

Outcome

To bring greater awareness and specific knowledge to Council’s staff of all issues surrounding vehicle weight limits, load restraint and heavy vehicles.

A copy of an outline of the content will be submitted to NHVR as evidence of this deliverable

Costs

Estimated cost for preparing and implementing program is approximately \$30,000 plus GST

Activity 2– Publication of Enforceable Undertaking on Council’s website

Scope

Council will promote and provide a link of the EU on its website for public viewing and education

Details

The EU will be published on a section on the Council’s website. This will include a synopsis of the EU and a link to the accepted undertaking.

Timeframe
By 30 September 2022
Outcome
To bring greater awareness and specific knowledge to citizenry of the Wimmera region of mass management and heavy vehicles.
Costs
N/A

The total cost of the undertaking will be approximately \$30,000

Part 4 Offer of undertaking

Executed as an Undertaking


Horsham Rural City Council ABN: 37 019 724 765

Executed by Horsham Rural City Council ABN: 37 019 724 765 by:

	
Signature of Chief Executive Officer	Signature of Director/Company Secretary
	
Name of Director (print)	Name of Director/Company Secretary (print)
Date: 8/08/2022	Date: 08 August 2022 9:54:52 AM AEST

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)
Date: 15/08/2022