

ENFORCEABLE UNDERTAKING

Chapter 10.1A

Heavy Vehicle National Law 2013 (NSW)

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

By

YF Waste Services Pty Limited

ABN: 19 617 856 112

Enforceable Undertaking

PART 1 - PURPOSE

1. 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 2013* (NSW) (**HVNL**) in connection with a matter relating to an alleged contravention of the HVNL.

PART 2 – GENERAL INFORMATION

Section 1 – Details

2. The commitments in this enforceable undertaking are offered to the NHVR by YF Waste Services Pty Limited (**YF Waste**).
3. 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: GDC Chartered Accountants
Suite 300 Level 3 447 Victoria Street
Wetherill Park NSW 2164

Postal Address: As above

Telephone: 1300 762 362

Email address: [REDACTED]

Legal Structure: Proprietary Company, Limited by Shares

Type of Business: Waste management operations

Commencement of entity: 15 March 2017

Number of workers: 5

Products and/or services: YF Waste Services is a waste management operations enterprise that offers waste management solutions to customers including households and large businesses. Services provided include general waste disposal, co-mingled recycling and specialised disposal and recycling using skip bins.

Details of alleged contravention

4. It is alleged by Transport for NSW (TfNSW) that on 12 August 2020, YF Waste 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

5. On 12 August 2020, at 12:22pm, a NSW registered heavy vehicle operated by YF Waste was weighed at Miller Road, Chester Hill. It is alleged that the weight detected on Axle Group 2 of that vehicle was 11.80 tonne, an overload percent of 25.56% in excess of the statutory limit of 9 tonne and that the vehicle's Gross Vehicle Mass was 17.25 tonne, in excess of the statutory limit of 15.00 tonne.

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

6. 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

7. YF Waste has received a Breach Report (TBR00157120) from TfNSW dated 12 August 2020 in respect of the alleged contravention that occurred on 12 August 2020.
8. YF Waste has also received a Court Attendance Notice (CAN ID 257283) in respect of the alleged contravention that occurred on 12 August 2020 in relation to a hearing before the Downing Centre Local Court of NSW.

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

9. YF Waste has an established comprehensive management system which encompasses Chain of Responsibility compliance.
10. The system is based on the approach of continuous improvement in how YF Waste manages risks associated with its operations and is designed to achieve compliance with legislative requirements (including the HVNL).
11. To avoid overloading, YF limits the weight that its heavy vehicles are allowed to hold:
 - a. A small sized single-axle truck can hold 6 tonnes. To prevent overloading, this truck will only hold 2m³ to 4m³ bins.
 - b. A medium sized single-axle truck can hold 9 tonnes. This truck will only hold 2m³ to 7m³ bins.
 - c. A double-axle truck can hold 11 tonnes. To prevent overloading, this truck will only hold 2m³ to 10m³ bins.

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

12. Consultation has been taken regarding the proposed EU within YF Waste's leadership and management team and workforce through the following established mechanisms:
- a. YF Waste Executive Management Division; and
 - b. YF Waste Operating Division

Section 2 – Statements

Statement of assurance

13. YF Waste 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 impacted by its business or undertakings.

Statement of regret

14. YF Waste regrets that the incident on 12 August 2020 occurred.

Statement of ability to comply

15. YF Waste confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement granting intellectual property licence

16. YF Waste 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.

Section 3 – Acknowledgement

17. YF Waste acknowledges that TfNSW alleges that YF Waste has contravened section 96(1)(c) of the HVNL.
18. The alleged contraventions are taken very seriously by YF Waste, its Directors and Senior Management, 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 4 – Details of Injury or Illness

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

19. 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

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

Section 5 – Rectifications Made

21. YF Waste is committed to ensuring it has developed systems that identify, assess and control risks 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 (Estimated Internal Staff Costs)
<p>(a) Verbal re-training of all employees of the proper procedure to follow when arranging for the accurate Heavy Vehicle to be sent for collection</p> <p>YF Waste’s regular procedure involves our customer service representatives inquiring as to what is contained within each customer’s skip bin and making an accurate determination of which size Heavy Vehicle to send for collection based on this information.</p> <p>As a result of the alleged contravention, YF Waste has emphasised in its re-training of all customer service representatives the importance of undertaking the following procedure:</p> <p>First, confirming whether contents of customers’ skip bins have been affected by water or rain, by confirming with both the customer and updated weather forecasts.</p> <p>Second, depending on the responses to these inquiries, identifying the accurate size Heavy Vehicle to be arranged to be sent.</p> <p>For example, if a 9m³ bin is filled with wet soil, YF knows to send a double-axle truck that can hold a maximum of 11</p>	<p>\$2500</p>

<p>tonnes, as the bin will exceed 9.2 tonnes on account of the excess weight caused by the water, and the medium sized single-axle truck that can hold a maximum of 9 tonnes will therefore be unsuitable and overload the vehicle.</p>	
<p>(b) Verbal re-training of all drivers to ensure that upon collection of each customer's skip bins, the Heavy Vehicle is weighed for each axle group by utilisation of its hydraulic arms before transportation of the skip bin to the waste facility</p> <p>The purpose of utilising a heavy vehicle's hydraulic arms is to give the operator warning when the weight on any axle group is close to the overload limit. The ease of lifting is an overload detection device.</p> <p>YF Waste has emphasised to drivers the importance of ensuring that skip bins that are not easily lifted by a vehicle's hydraulic arms may in no circumstances be transported onto heavy vehicles by drivers. It has been emphasised to drivers that the proper course of action is to leave the bin with each customer, to drive the unsuitable heavy vehicle to YF Waste's premises and to return to the customer's premises with the proper vehicle.</p>	<p>\$2500</p>

22. The total amount spent on enhancement and rectifications following the alleged contravention is \$5000.

Section 6 – Acknowledgement of publication

23. YF Waste 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

24. YF Waste 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

25. YF Waste is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
26. YF has a commitment to ongoing continuous improvement in how it manages risks associated with its business operations.

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

27. YF Waste is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including YF's executive, senior and operational management and all relevant subcontractors working for YF Waste. This information will be disseminated through YF Waste's website which is accessible for all employees, clients and partners within 2 months from the date of acceptance of the EU.

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

28. YF Waste is committed to participating constructively in all compliance monitoring activities of the EU. It is acknowledged that responsibility for demonstrating compliance with the undertaking rests with YF Waste.
29. It is acknowledged that NHVR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to 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

30. YF Waste 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

31. As part of this enforceable undertaking, YF Waste aims to deliver strategies that focus on:

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

32. YF Waste intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness drivers and all parties within the chain of responsibility about the chain of responsibility laws.

Activities
<p>Activity 1 – Delivery of a training course in order to re-train all customer service representatives and management staff in the enhancements and modified processes across YF Waste’s operations.</p> <p>Scope</p> <p>The training course will provide workers with a complete understanding of the procedures to be adopted when ensuring the correct Heavy Vehicle is sent for collection of skip bins</p> <p>Details</p> <p>The training course will include the following content:</p> <ul style="list-style-type: none"> • Direct confirmation by customer service representatives with customers as to the contents to be disposed and whether the contents are affected by water or rain • Conferment by staff with the Bureau of Meteorology website as to the daily and weekly regional NSW weather forecasts prior to delivery of skip bins • Arrangement by staff as to the appropriate Heavy Vehicle to be arranged for the collection of skip bins <p>Timeframe</p> <p>Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 2 months of the Start Date.</p> <p>Outcome</p> <p>Identification of additional enhancements to the existing process for the management of mass compliance in heavy vehicle operations.</p> <p>Costs</p> <p>Estimate of \$10,000.</p> <p>Output</p>

A copy of an outline of the content (developed above) will be submitted to NHVR as evidence of this deliverable.

Activity 2 – Delivery of a training course in order to re-train all employees on the Chain of Responsibility obligations and responsibilities

Scope

Training will increase YF Waste's employees' awareness, knowledge and skills regarding chain of responsibility legislation.

Details

The course will include the following content in order to address key risk areas associated with Heavy Vehicle operations:

- Providing an overview of the Chain of Responsibility law,
- Explaining the importance of safe load restraint and appropriate load mass and dimension limitations,
- Identify legal compliance requirements relating to mass management, particularly related to heavy haulage operations,
- Explain how to meet legal compliance requirements, including use of hydraulic arms and proper procedures and calculations to determine correct heavy vehicle
- Consequences (both from a regulatory penalty perspective and a human perspective) of not complying and managing these risks,
- The proactive choices and decisions that persons within the chain of responsibility need to take to ensure effective management of overloading risks, and
- Explain the actions that must be taken if a potential or actual breach of Chain of Responsibility is observed.

Timeframe

Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 2 months of the Start Date.

Outcome

Improvement in awareness of Chain of Responsibility requirements across all levels of YF supply chain and workforce.

Costs

Estimate of \$5000.

Output

A copy of an outline of the content (developed above) will be submitted to NHVR as evidence of this deliverable.

Activity 3 - Issuing of a directive to all employees of the enhancements and rectifications to be enacted, which will broadly read as follows:

Directive to all YF Waste Employees

It has come to our attention that rainwater and waterlogged items overloads the weight of our customers' skip bins, and by extension, our trucks.

Attention to customer service employees

Please ensure that all customer service representatives take the following measures **before** drivers are sent to collect customers' skip bins:

- (1). Each customer service representative must cross-reference the customer's location with the NSW weather forecast for the period the skip bin was delivered to the customer
- (2). Each customer service representative must contact the customer directly and ask the following questions:

(1). What are the items in your bin?

(2). Do you have any wet or waterlogged items? For example, have you raked dry leaves or have you cleaned up after a rain storm?

- (3). Based on the information provided, each customer service representative must arrange for the correct truck to be driven to the location of the skip bin, taking into account any excess weight the bin holds on account of rainfall and the fact that, as a standard measurement, 1m³ of wet soil will exceed 1.2 tonne.

Attention to drivers

Please ensure that all drivers take the following measures upon arrival of customers' locations:

- (1). Utilise the vehicle's hydraulic arms when lifting the skip bin in order to ascertain whether the weight on any axle group is close to the overload limit.
- (2) Observe the difficulty or ease of lifting the skip bin in order to determine whether overloading of the truck has occurred.

(3) If overloading is suspected to have occurred as a result of observing any difficulty of lifting the skip bin, remove the skip bin from the truck and ensure that it remains at the customer's premises.

(4) Explain to the customer of your legal obligation to ensure the correct truck is used to transport the skip bin.

(5) Return the unsuitable truck to YF Waste's premises and drive the suitable truck to the location of the skip bin.

Timeframe

Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 2 months of the Start Date.

Outcome

33. Identification of additional enhancements to existing process for the management of mass compliance in heavy vehicle operations.

Costs

34. Estimate of \$3000.

Output

35. A copy of this directive will be submitted to NHVR as evidence of this deliverable.

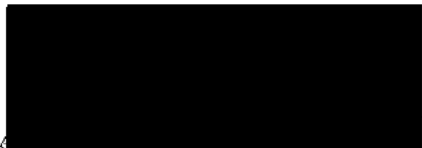
36. The total estimated value of the undertaking is \$18,000.

37. Activities 1, 2 and 3 will be completed within 1 year from the date of acceptance of the undertaking by the National Heavy Vehicle Regulator.

PART 3: OFFER OF UNDERTAKING

Executed as an Undertaking

Executed by YF Waste Services Pty Limited (ACN 617 856 112) pursuant to section 127(1) of the Corporations Act 2001 (Cth) by:



Signature of Director

Yosset Fabinda

Name of Director (Print)

29/4/2021

Date

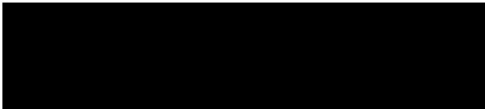
Signature of Director/Company Secretary

Name of Director/Company Secretary (Print)

Date

PART 4 - 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 2013 (NSW) by:



Signature of Chief Executive Officer

SAL PETROCCITTO

Name of Chief Executive Officer (Print)

7 MAY 2021

Date

