

17 August 2021
Our Reference: 2780
Your Reference:

Zezt Pty Ltd
10 Terra Nova Drive
Wynyard, Tasmania 7325

To the proper officers,

Heavy Vehicle National law
Part 10.1A – Enforceable Undertakings
REASONS FOR DECISION

1. I have received your proposal for an Enforceable Undertaking per Part 10.1A of the *Heavy Vehicle National Law* (“HVNL”). For the reasons set out I am of the opinion the undertakings given by Zezt Pty Ltd (“Zezt”) are appropriate enforcement options in regard to the relevant contravention.

Background to the application

2. It is alleged by the National Heavy Vehicle Regulator (“NHVR”) that:
 - a. On the 1 July 2020 a heavy vehicle operated by Zezt was weighed at Forest Farm Weighbridge on the Bass Highway in Tasmania. It is alleged that the steer axle weighed 7,920kg, breaching the permitted limit of 6,500kg (a severe mass breach of 126.46%). No death, injury or infrastructure damage was caused by this particular overload.
3. This allegation is a contravention of section 96(1)(c) of the HVNL. The NHVR commenced a prosecution against Zezt alleging the contravention.
4. On 13 August 2021, Zezt wrote to the NHVR proposing an Enforceable Undertaking for the alleged contravention.

Factors to be taken into consideration

5. I have assessed the proposal submitted against NHVR Policy – *Enforceable Undertakings* (“the policy”) and NHVR Guideline - *Proposing an Enforceable Undertaking* (“the guidelines”).
6. In assessing the proposal per Section 4 of the guidelines I have considered the following factors:

- a. While the alleged overmass contravention was of the highest risk category, there was no manifestation of the risk to the public safety, road infrastructure or the environment.
- b. Zezt has not previously been the subject of an Enforceable Undertaking under the HVNL or under any Work Health and Safety statutory regime.
- c. Since commencing operation in Australia, Zezt has not been convicted of any offence under the HVNL, a breach of any safety duty under the WHS legislation of a State, Territory or the Commonwealth, a failure to comply with any enforceable undertaking, or any offence involving the death, serious injury or illness of any person involved in Zezt's business or undertakings.
- d. Zezt's proposed Enforceable Undertaking shows a commitment to and willingness for positive change. Seven activities will be undertaken in order to deliver benefits to Zezt's drivers, other parties in the chain of responsibility, and the broader community.
- e. The activities proposed are likely to achieve measurable improvements in the heavy vehicle transport industry internally, and to the wider supply chain, as well as to the communities in which Zezt operates.
- f. Overmass heavy vehicles are a common occurrence. Education, systems and training which result in less contravention will lead to safer heavy vehicles on the road and less impact on road infrastructure.
- g. Zezt has given their commitment to commence the activities, in a staged approach in a realistic timeframe, completing the seven activities within a 12-month period.

Reason for Decision

7. Having considered all the above factors, and in all of the circumstances of this matter, I am of the opinion that the Enforceable Undertaking proposed by Zezt is an appropriate enforcement option in regard to the relevant contravention.
8. I conclude that the Enforceable Undertaking is a preferred enforcement option to continuing the prosecution for the relevant contravention due to the opportunity to provide lasting organisational change within Zezt. The activities and benefits proposed would not have been achieved by prosecution alone.

9. Pursuant to section 590A of the HVNL, it is my decision to accept the Enforceable Undertaking Zest offered on 13 August 2021.

Yours sincerely,



Sal Petrocchio

Chief Executive Officer