

**ENFORCABLE UNDERTAKING**

Chapter 10.1A

Heavy Vehicle National Law

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

by

**EIFERS PTY LTD**  
**(ACN 105 072 811)**

## APPLICATION FOR AN ENFORCABLE UNDERTAKING

### PART 1 – GENERAL INFORMATION

#### Section 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 (HNVL).
2. These undertakings arise in connection with a matter relating to an alleged contravention of the HVNL.

#### Section 2 – Details

3. The commitments in this enforceable undertaking are offered to the NHVR by Eifers Pty Ltd (Eifers).
4. This enforceable undertaking 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:	13 Newmarket Lane, Epping Victoria 3076
Postal address:	13 Newmarket Lane, Epping Victoria 3076
Telephone contact:	03 9357 6360
Email address:	[REDACTED]
Legal structure:	Private company limited by shares
Type of business:	Civil construction
Commencement date of the entity:	2003
Number of workers products and/or services:	33 employees

#### *Details of the alleged contraventions:*

5. It is alleged by the NHVR that on 22 October 2019, Mr Bradley Dean Stewart drove a heavy vehicle, namely a Blue 2013 Westinghouse (sic WesternStar) prime mover registration (Vehicle) number 1NG4ED on a road without ensuring that the vehicle, its components, and load, complied with the applicable mass requirements, namely the tri-

axle group of the vehicle exceeded the prescribed mass limit of 20.0 tonne, contrary to section 96(1) of the HVNL.

6. It is further alleged by the NHVR that on 22 October 2019, Mr Bradley Dean Stewart drove the Vehicle on a road without ensuring that the vehicle, its components, and the load complied with the applicable load requirements, namely that the vehicles' load was inadequately restrained, contrary to section 111(1) of the HVNL.

***Details of the events surrounding the alleged contraventions:***

7. On 22 October 2019, VicRoads authorised officers observed the Vehicle towing a 3-axle low loader semi-trailer registration number 94803S travelling east on the Princess Highway, Flynn. Authorised officers were stationed at the weighbridge. The Vehicle failed to enter as was required.
8. The authorised officer intercepted the Vehicle for failing to enter, spoke to the driver and inspected the vehicle.
9. The authorised officer noticed smoke emanating from the first axle outer tyre on the right-hand side of the low loader semi-trailer. The driver was issued with a defect notice (E521553 and DE521554).

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

10. There were no injuries or financial loss that arose as a result of the alleged contraventions.

***The details of any notices issued that relate to alleged contraventions***

11. Eifers has not received a breach report in relation to the alleged contravention.
12. Mr Bradley Dean Stewart has been charged on summons in relation to the alleged contraventions that occurred on 22 October 2019, and Mr Stewart has received a court attendance notice in relation to the hearing before the Magistrates' Court of Victoria at Heidelberg.

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

13. Eifers has an established comprehensive occupational health and safety management system (**OHSMS**) which encompasses transport safety management and chain of responsibility compliance.

14. The OHSMS has been implemented across Eifer's operations. The OHSMS is based on the approach of continuous improvement in how Eifers manages risks associated with load and mass management on trailers and is designed to achieve compliance with legislative requirements (the HVNL) and applicable standards.
15. As part of the OHSMS, Eifers has introduced new procedures and specifications regarding the loading of equipment on trailers and managing mass. Details of these new procedures and specifications are set out in the table of rectifications below.

***Any consultation undertaken with the company regarding the proposal of the enforceable undertaking (EU)***

16. Consultation has been taken regarding the proposed enforceable undertaking within Eifer's leadership and management team.

**Section 3 – Statements**

***Statement of assurance***

17. Eifers confirms that it is committed to complying with its obligations under the HVNL and ensuring, so far as reasonably practicable, the health and safety of all workers and those who may be affected by its business or undertakings.

***Statement of regret***

18. Eifers and Mr Bradley Stewart each regret the incident on 22 October 2019 occurred.

***Statement of ability to comply***

19. Eifers confirms that it has the financial and operational capacity to comply with terms of this enforceable undertaking and is prepared to provide evidence with this undertaking to support this declaration.
20. Eifers grants the NHVR a permanent, revoke or, royalty free, worldwide non-exclusive license to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking.

**Section 4 – Acknowledgement**

21. Eifers and Mr Stewart acknowledge there has been a contravention of section 96(1)(c) and 111(1) of the HVNL.

22. The alleged contravention is taken very seriously by Eifers, 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. The alleged contravention has also been taken very seriously by Mr Stewart.
23. Eifers acknowledges that it was the operator of the Vehicle, and the entity with the ultimate responsibility for the load of the Vehicle. While Eifers is not alleged to have contravened the HVNL, it accepts responsibility for the alleged contravention and proposes to enter into and be bound by this enforceable undertaking.

#### **Section 5 – Details of injury or illness**

##### ***Type of workers compensation provided (if the injured person is the worker of the person)***

24. 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***

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

#### **Section 6 – Rectifications**

26. Eifers 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
<p><b>Activity 1 – Verbal re-training of employees of the proper procedure to follow when loading heavy vehicles, and directing certain employees to undertake a Load and Unload Plant unit provided by Star Training and Assessing Pty Ltd (a Registered Training Organisation)</b></p> <p>As a result of the alleged contravention, Eifers has emphasised in its re-training of all customer service representatives the importance of undertaking appropriate procedures to</p>

load heavy vehicles to all staff and contractors in attendance (22 staff, 4 managers and 2 directors).

Amount: \$1,041.50

Three employees of Eifers, Matthew De Lange, Liam Cussen and Daniel Meehan have undertaken unit 'RIIHAN308F – Load and Unload Plant' provided by Star Training and Assessing Pty Ltd in 2020. Copies of the unit certificates are attached in the confidential annexure to this undertaking. Mr Stewart has been booked to undertake this unit, however the training unit has been delayed due to COVID-19.

Amount: \$1,800

#### **Activity 2 – Improving its Occupational, Health and Safety systems by attaining ISO 9001, ISO 14001 and ISO 45001 certifications**

After the alleged contravention, Eifers has improved its occupational, health and safety systems by, among other things, attaining the following certifications in September 2020:

- ISO 45001:2018 – Occupational health and safety management systems
- ISO 9001:2015 – Quality management systems
- ISO 14001:2015 – Environmental management systems

Certificates of conformity for ISO 45001, ISO 9001 and ISO 14001 are attached in the confidential annexure to this application.

Eifers will be required to have its systems audited on an annual basis to maintain the above certifications. Eifers undertook a pre-assessment and system review in June 2020, and an audit certification in September 2020. Eifers will undertake recertification in August 2021.

Amount: \$20,306 (ISO certifications and audits to date)

27. The total amount spent on enhancement and rectifications following the alleged contravention is \$23,147.50

#### **Section 7 – Acknowledgement of publication**

28. Eifers acknowledges that the enforceable undertaking will be published on the NHVR's Internet site and may be referenced in the NHVR's publications.

## **PART 2 – ENFORCABLE TERMS**

### **Section 1 – Commitments**

#### ***Commitment that the behaviour that led to the alleged contravention has ceased and will not re-occur***

29. Eifers 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***

30. Eifers is committed to the ongoing effective management of public risk associated with transport activities within its business operations.

31. Eifers 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***

32. Eifers is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including Eifer's executive, senior, and operational management and its employees and contractors working for Eifers.

33. This information will be disseminated through Eifers' 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 and monitoring activities of the EU***

34. Eifers is committed to participating constructively in all compliance monitoring activities of the EU.

35. Eifers acknowledges that responsibility for demonstrating compliance with the undertaking rests with Eifers 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. Eifers 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**

38. As part of this enforceable undertaking, Eifers aims to deliver strategies that benefit:

- (a) benefit Mr Bradley Stewart, the individual driver the subject of the contravention.
- (b) benefits to the drivers and parties within the chain of responsibility; and
- (c) benefits to the transport industry and the broader community.

39. Eifers intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness for Mr Bradley Stewart, drivers and all parties within the chain of responsibility for load restraint awareness.

### **Activities**

**Activity 1 – Delivery of training course to all drivers and employees involved in loading heavy vehicles, including Mr Bradley Stewart, to retrain and educate Load Restraint Awareness and mass loading requirements**

#### **Scope**

The training course will provide drivers and employees (including Mr Stewart) with knowledge of loading heavy vehicles, including mass limits for the axle groups on the trailers used in the business.

#### **Details**

The training course will include the following content:

- Planning and preparing loads.
- Conducting machines for loads.
- Float trailer pre-operational check procedures.



- Determining mass loads on vehicles, including the use of aids such as scales and weighbridges.
- Loading a machine on to a trailer or float,
- Correct use of signs and barriers.
- Use of loading aids and securing devices.
- Maintenance and clean up.
- The provisions of the National Transport Commission's Load Restraint Guide 2018.
- The requirements of the Heavy Vehicle National Law (HVNL), including mass limits for the axle groups on the trailers used in the business.

**Timeframe**

Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 3 months of the Start Date.

**Outcome**

Identification and education of the appropriate process to load heavy vehicles, and manage mass compliance requirements in heavy vehicle operations.

**Costs**

Estimate of \$3,000.

**Output**

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

**Activity 2 – Issuing of a directive to all employees (including Mr Bradley Stewart) to view the 'Effective Load Restraint' webinar provided by Safe Work Australia****Scope**

The 'Effective Load Restraint' webinar will provide further education to all employees (including Mr Bradley Stewart) about the safe and effective restraints of loads on heavy vehicles to protect the safety of workers and users of public roads.

**Details**

The webinar includes the following content:

- The fundamentals of load restraint.

- The importance of having an engineered load restraint system.

**Timeframe**

Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 3 months of the Start Date.

**Outcome**

Identification and education of the appropriate process to load heavy vehicles, and manage mass compliance requirements in heavy vehicle operations.

**Costs**

Estimate of \$1,000.

**Output**

A copy of this directive, and a certificate of attendance and participation, will be submitted to the NHVR as evidence of this deliverable.

**Activity 3 – The review of procedures and the development of a written policy and procedure manual for employees for the loading of heavy vehicles and chain of responsibility requirements, which Eifers will direct employees to read and be bound by**

**Scope**

The written policy and procedure manual will be developed for employees which regulates the loading of heavy vehicles within the business consistent with the National Transport Commission's Load Restraint Guide 2018, and the Heavy Vehicle National Law (HVNL).

**Details**

The written policy and procedure manual will include the following content:

- The safe loading of heavy vehicles.
- The policy and procedures manual will be reviewed and developed by reference to the provisions of the National Transport Commission's Load Restraint Guide 2018, the Heavy Vehicle National Law (HVNL), and chain of responsibility guidelines.

A directive will be issued to all employees to read the written policy and procedure manual, which they will be bound by.

The business will prepare a one page document setting out the mass limits for each trailer, and that document will be kept in each heavy vehicle for reference for drivers.

**Timeframe**

Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 6 months of the Start Date.

**Costs**

Estimate of \$7,000

**Output**

A copy of the written policy and procedure manual, the directive, and the mass limit document for its trailers, will be submitted to the NHVR as evidence of this deliverable.

**Activity 4 – Commitment to continue ISO9001, ISO45001 and ISO14001 certification****Scope**

Eifers will commit to continuing ISO9001, ISO45001 and ISO14001 certification within its business for the period of 4 years following the entry of the undertaking.

**Details**

The commitment will involve:

- Eifers maintaining ISO9001, ISO45001 and ISO14001 certification within its business for the period of the undertaking.
- Complying with audit and certification requirements to maintain its accreditation for ISO9001, ISO45001 and ISO14001 which is renewed annually.

**Timeframe**

Eifers will undertake to do all things required to continue ISO9001, ISO45001 and ISO14001 certification within its business for the period of 1 year following the acceptance of the enforceable undertaking.

**Timeframe**

Upon acceptance of this enforceable undertaking, this deliverable will begin immediately from the Start Date.

**Costs**

Estimate of \$31,000 [\$7,000 = 4 years @ \$6,000 per annum]

**Output**

Evidence of the renewal and maintenance of ISO9001, ISO45001 and ISO14001 certification will be submitted to the NHVR as evidence of this deliverable.

**Activity 5 – The development of a promotional video to promote Heavy Vehicle Road Safety and the Australian Road Safety Foundation's 'Take the Pledge' program, to be featured on Eifer's website and promoted to employees**

### **Scope**

The promotional video will promote and awareness of Heavy Vehicle Road Safety for road users on Eifer's website.

### **Details**

The promotional video will include the following content:

- Awareness of road safety for road users driving near heavy vehicles.
- Promotion of the 'Pledge to Drive Safely' campaign by the Australian Road Safety Foundation.
- Promotion of six recommendations for road users when driving near heavy vehicles.

### **Timeframe**

Upon acceptance of this enforceable undertaking, the promotional video will be immediately available on Eifers' website.

### **Details**

The written policy and procedure manual will include the following content:

- Safe work method statement.
- Safe operating procedures.
- The policy and procedures manual will be reviewed and developed by reference to the provisions of the National Transport Commission's Load Restraint Guide 2018, and the Heavy Vehicle National Law (HVNL).

A directive will be issued to all employees to read the written policy and procedure manual, which they will be bound by.

### **Timeframe**

Upon acceptance of this enforceable undertaking, this deliverable will begin with the development of the plan within 6 months of the Start Date.

**Costs**

Estimate of \$2,000.

**Output**

A copy of the promotional video will be submitted to the NHVR as evidence of this deliverable.

40. The total estimated value of the undertaking is \$44,000.

41. Activities 1 to 5 will be completed within 1 year from the date of acceptance of the undertaking by the National Heavy Vehicle Regulator.

**Section 4 – Offer of Undertaking**

Executed as an undertaking

Executed by Eifers Pty Ltd pursuant to s 127(1) of the *Corporations Act 2001* (Cth) by:



Signature of Director

Date: 01-09-2021

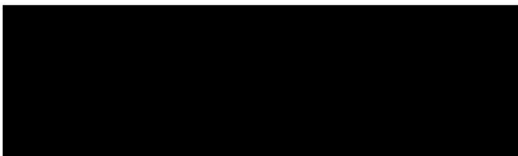


Signature of Director/Secretary

Date: 01-09-21

**Section 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

Date: 8.9.21