

15 May 2023

Our Reference: 4701

CSG RESOURCE SUPPLIES PTY LTD






To the Proper Officers

***Heavy Vehicle National Law***  
**Part 10.1 – Enforceable Undertakings**  
**REASONS FOR DECISION**

**I. Introduction**

1. In accordance with section 590A (7) of the *Heavy Vehicle National Law* ('HVNL'), I provide written notice and reasons for my decision to accept the Enforceable Undertaking proposed ('the EU proposal') by CSG Resource Supplies Pty Ltd<sup>1</sup> pursuant to Part 10.1A of the HVNL.
2. I have considered this proposal and assessed it against the NHVR *Prosecution Policy* ('the policy'), *Enforceable Undertakings Policy* ('the EU policy') and the *Guidelines on Proposing an Enforceable Undertaking* ('the EU Guidelines'). For the reasons set out below I am of the opinion that the EU proposal, in the circumstances, is an appropriate enforcement option for the particular contraventions alleged in this case.

The Alleged Facts

3. On 22/07/2022 at Marulan, in the State of New South Wales, it is alleged that CSG Resource Supplies Pty Ltd permitted another to drive a heavy vehicle that failed to comply with mass requirements, contrary to section 96(1)(c) of the HVNL.
4. It is alleged that CSG Resource Supplies Pty Ltd permitted another, namely   
 to drive a HINO Heavy Vehicle, registration number . The maximum allowable mass on the second axle group of the combination was 9 tonnes. The vehicle's mass on the

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<sup>1</sup> CSG Resource Supplies Pty Ltd, Enforceable Undertaking Proposal pursuant to Chapter 10.1A of the HVNL dated 26/04/2023.

second axle group was weighed at 11.46 tonnes. Taking into account the applicable mass adjustment, the vehicle's alleged mass on the second axle group was 11.06 tonnes, an excess mass of 2.06 tonnes, or a 122.8% overload.

5. The NHVR commenced a prosecution against CSG Resource Supplies Pty Ltd alleging the contravention. The maximum penalty available for the offence is \$60,240.00.

#### The Proposed Enforceable Undertaking

6. The EU proposal from CSG Resource Supplies Pty Ltd comprises three (3) initiatives to be completed by 26/04/2025, and would amount to a total estimated cost of \$34,000.00.
7. The three initiatives can be summarised as follows. CSG Resource Supplies Pty Ltd undertakes to:

**(a) Initiative 1 – Load Restraint Training and Testing - Cost - \$16,000.00**

CSG Resource Supplies Pty Ltd will conduct a compulsory internal course for all its internal stakeholders including directors, office staff and sub-contractors for a Load Restraint Training and Testing course, with a focus on enhanced understanding of legislation, procedures, and compliance with the HVNL and CSG Resource Supplies Pty Ltd's own Transport Safety Management System.

**(b) Initiative 2 – Update of Compliance Resources: Safe Work Method Statement (SWMS), Risk Assessment Policy and Driver Handbook – Cost - \$10,000.00**

CSG Resource Supplies Pty Ltd will conduct an annual review and update of its Transport Safety Management System, Safe Work Method Statement (SWMS), Risk Assessment Policy and Driver Handbook. A copy of the Driver Handbook is stored in all company vehicles and is made available at all sites in hard copy in staff room and is available electronically and at any time by request.

**(c) Initiative 3 - Organising a Toolbox Talk/Seminar Emphasising on the Heavy Vehicle Dimension Requirements – Cost - \$8,000.00**

CSG Resource Supplies Pty Ltd will conduct a toolbox talk/seminar to emphasise and educate the attendees on the importance of heavy vehicle dimension requirements. Invitations would be extended to the members of the wider trucking community, including several businesses which are located in close proximity to CSG Resource Supplies Pty Ltd. Upon the delivery of the talk,

there would be a quiz to test the knowledge of the attendees on the heavy vehicle dimension requirements.

## **II. Criteria to be applied**

8. In arriving at my decision, I have evaluated the EU proposal against the 10 evaluation criteria in Section 4 of the EU Guidelines namely: (1) the nature and extent of the omission alleged; (2) the Promisor's compliance history; (3) whether the EU proposal delivers benefits to the public beyond the Promisor's compliance with the law; (4) the quality of the strategies proposed and the extent to which they are likely to achieve measurable improvement in heavy vehicle transport safety; (5) the likely improvements in safety within the Promisor's business or operations; (6) the Promisor's ability, including financial ability, to meet the terms of the EU proposal; (7) the significance of the commitment compared to the capability of the Promisor; (8) the support the Promisor has provided and has committed to providing into the future to an injured or affected person(s); (9) input from injured and affected persons; (10) the likely outcome should the matter be dealt with through legal proceedings; and (11) reports or assessments of investigating or prosecuting agencies who have conduct of the matter.
9. With regards to criteria (1) and (2), I have considered the nature and extent of the conduct alleged and CSG Resource Supplies Pty Ltd's compliance history.
10. I acknowledge that prior to these allegations, I am aware of one (1) conviction for a compliance breach of the HVNL. CSG Resource Supplies Pty Ltd was convicted and fined \$1000.00 on 2 December 2020 for permitting another to drive a heavy vehicle that failed to comply with mass requirements, contrary to section 96(1)(c) of the HVNL.
11. With regards to criteria (3), (4) and (5), I acknowledge and have considered that the EU proposal initiatives may benefit the public beyond the compliance of the law, are of good strategic quality, have potential to make noticeable positive change in the transport industry in terms of implementation of safety measures, and are likely to improve CSG Resource Supplies Pty Ltd's transport operations.
12. With regards to criteria (6) and (7), I acknowledge that CSG Resource Supplies Pty Ltd has the ability to meet the terms of the EU proposal and have taken into account the significance of the EU commitment, compared to CSG Resource Supplies Pty Ltd's capability.

13. With regards to criteria (8) and (9), concerning the EU proposal's support of injured or affected person(s) and input from injured and affected persons, I have found these factors are not a relevant consideration, bearing in mind the specific facts of this matter.
14. With regards to criteria (10) and (11), concerning the likely outcome should this matter be dealt with through legal proceedings and the views of investigating and prosecuting agencies, I have similarly taken these matters into account.

### **III. Conclusion**

15. Considering all of these criteria, I am of the opinion that it is appropriate to accept the EU proposal as an alternative to prosecution.
16. Consequently, I have decided to accept the proposed EU and advise that the legal proceedings against CSG Resource Supplies Pty Ltd will be withdrawn.

Yours sincerely

  
Sal Petrocchio

**Chief Executive Officer  
National Heavy Vehicle Regulator**