



# Enforceable Undertaking

## Chapter 10.1A

### Heavy Vehicle National Law

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

By

ANDREW CHARLES ALLEN

## **Part 1     Executive summary**

### **Section 1     Agreed actions**

1. The terms mentioned within this Enforceable Undertaking are accepted and agreed to be complied with by Andrew Charles Allen.
2. The National Heavy Vehicle Regulator consents to the Enforceable Undertaking and agrees to withdraw the charge before Nowra Local Court against Andrew Charles Allen.

### **Section 2     Total cost of actions**

3. Cost to enrol and undergo Chain of Responsibility (Cor) course with Harness: \$250.00
  4. Cost to enrol and undergo Loading and Unloading course with URBAN eLearning: \$199.00
  5. Donation to Road Trauma Support Group NSW: \$500.00
- Total costs of Actions: \$949.00

## Part 2 General information

### Section 1 Purpose

6. 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

7. The commitments in this enforceable undertaking are offered to the NHVR by Andrew Charles Allen.
8. 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:	
Postal address:	
Telephone:	
Email address:	
Legal structure:	Contractor
Type of business:	Truck Driver
Commencement of entity:	-
Number of workers:	-
Products and/or services:	Freight and Transport

#### Details of the alleged contravention

9. On 23 May 2023, Andrew Charles Allen drove a white Hino Series table-top without fittings bearing on Princes Highway at South Nowra on a road and did fail to ensure that the heavy vehicle, its components and load complied with the dimension requirements.

#### Details of the events surrounding the alleged contravention

10. On 23 May 2023, authorised officers of the National Heavy Vehicle Regulator ("the Regulator") observed heavy vehicle, namely a white Hino Series table-top without fittings, bearing registration number ("the vehicle") travelling on Princes Highway, Nowra
11. The authorised officers intercepted the vehicle, spoke to the driver and inspected the vehicle, its components and its load.
12. Inspection of the vehicle's registration details revealed that the registered operator is .
13. The vehicle's permitted width was 2.500 meters.
14. The vehicle was loaded with scaffolding.
15. The vehicle's alleged width was measured at 2.625 meters. Taking into account the applicable dimension adjustment, the vehicle's alleged width was 2.605 meters, an excess width of 0.105 meters.
16. The alleged contravention of the vehicle's permitted width resulted in a severe risk breach.
17. The authorised officers spoke to the accused at the time of the intercept. The accused made the following statements:
  - a. That he loaded the vehicle and secured the load.

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

18. NIL

**The details of any notices issued that relate to the alleged contravention**

19. Andrew Charles Allen received a letter on or about 24 November 2023 (Reference 9417) with a charge and summons to attend Nowra Local Court on 1 December 2023.

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

20. The current safety systems include restrictions on hours worked and compulsory breaks.

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

21. Andrew Charles Allen is an individual and hasn't consulted any company regarding this Enforceable Undertaking.

**Section 3 Statements****Statement of assurance**

22. Andrew Charles Allen confirms that he is committed to complying with his obligations under the HVNL and ensuring so far as is reasonably practicable, the health and safety of all persons that have the potential to be impacted by its business or undertakings.

**Statement of regret**

23. Andrew Charles Allen regrets the events that occurred on 23 May 2023.

**Statement of ability to comply**

24. Andrew Charles Allen confirms that he has the financial and operational capacity to comply with the terms of this Enforceable Undertaking.

**Statement granting permission to use**

25. Andrew Charles Allen grants the NHVR a permanent, irrevocable, royalty-free, worldwide non exclusive licence to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify and materials developed as a result of this Enforceable Undertaking.

**Statement of prior undertakings**

26. Andrew Charles Allen confirms that he has not been the subject of a statutory enforceable undertaking from another statutory body.

**Section 4 Acknowledgement**

27. Andrew Charles Allen acknowledges that NHVR alleges that he has contravened section 102(1)(b)(iii) of the HVNL.
28. The alleged contraventions are taken very seriously by Andrew Charles Allen who is committed to providing a safe and healthy workplace to conduct his business in a way that helps protect the environment and the communities in which he operates.

**Section 5 Details of Injury or Illness****Types of workers compensation provided (if the injured person is a worker of the person)**

29. 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**

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

**Section 6 Rectifications made**

31. Andrew Charles Allen is committed to ensuring it has developed systems that identify, assess and control risks and are 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
Adjusted processes to include additional checks and restraints on loads to the trust and also individual pallets loaded onto trucks.	N/A
Total cost p.a. N/A	

**Section 7 Acknowledgement of publication**

32. Andrew Charles Allen 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**

33. Andrew Charles Allen 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**

34. Andrew Charles Allen is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
35. Andrew Charles Allen 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**

36. Andrew Charles Allen is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including senior and operational management, health and safety management team, Health and Safety Committees and Health and Safety Representatives, workers, and all relevant contractors and subcontractors working [REDACTED]. This information will be disseminated directly to the people concerned, if and when it eventuates.

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

37. Andrew Charles Allen is committed to participating constructively in all compliance monitoring activities of the EU.
38. Andrew Charles Allen acknowledges that responsibility for demonstrating compliance with the undertaking rests with Andrew Charles Allen and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
39. 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**

40. Andrew Charles Allen 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**

41. As part of this enforceable undertaking, Andrew Charles Allen aims to deliver strategies that focus on benefits to:
  - a. drivers and parties within the chain of responsibility
  - b. the transport industry and the broader community.
42. Andrew Charles Allen intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Andrew Charles Allen's workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

### **Activities**

#### **Activity 1 – Chain of Responsibility (CoR) course**

##### **Scope**

TLIF0009 - Apply chain of responsibility legislation, regulations and workplace procedures. The Chain of Responsibility Online training for Drivers, also called Level 1, is about helping to meet responsibilities around minimising and eliminating risk from the transport activities you are involved with or control – as much as reasonably possible.



### Activity 1 – Chain of Responsibility (CoR) course

#### Details

Chain of Responsibility Training – Drivers Level 1

Provider: Harness RTO #40521

#### Timeframe

To be completed within six (6) months

#### Outcome

A certificate which indicates the Statement of Attainments as recognised under the Australian Qualifications Framework.

#### Costs

\$250.00

#### Output

A copy of the certificate to be submitted to the NHVR

### Activity 2 – Loading and Unloading

#### Scope

TLID0015: This is the full nationally recognised course that meets the requirements of the unit of competency. Load and unload goods/cargo. Suitable for anyone performing loading, unloading or load restraint activities.

#### Details

Loading and Unloading course

Provider: URBAN eLearning RTO #31973

#### Timeframe

To be completed within six (6) months

#### Outcome

The 'Loading and Unloading' course will provide you with the skills and knowledge to safely prepare, lift, position and restrain goods on a vehicle platform and then unload goods at the destination.

On completion of the 'Loading and Unloading' course, you will be able to:

1. explain your legal obligations during loading and unloading activities
2. prepare the goods for loading
3. load the goods safely
4. secure and protect the goods appropriately
5. unload the goods safely at the destination, and
6. complete relevant documentation.

On completion of the course, you will receive a Nationally Recognised Statement of Attainment.

**Activity 2 – Loading and Unloading****Costs**

\$199.00

**Output**

A copy of the certificate to be submitted to the NHVR

**Activity 3 – Donation to Road Trauma Support NSW****Scope**

The Road Trauma Support Group NSW is the voice of families of road trauma. Long after the crash, the survivors, family members and friends continue to feel the impact.

**Details**

Donation of \$500.00

**Timeframe**

Donation to be made within 30 days of the Undertaking being accepted.

**Outcome**

Donation

**Costs**

\$500.00

**Output**

Provide evidence of donation to the NHVR

43. The total estimated value of the undertaking is \$949.00.

## Part 4 Offer of undertaking

Executed as an Undertaking


Andrew Charles Allen

	12/2/24
Signature of Andrew Charles Allen	Date



## 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:


<b>Signature of Executive Director</b>
Raymond Hassall
<b>Name of Executive Director (print)</b>
Date: 08/04/2024