



# Enforceable Undertaking

## Chapter 10.1A

### Heavy Vehicle National Law

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

**By**

**Darren Manton**

**ABN: 18 098 355 376**

## Part 1 Executive summary

### Section 1 Agreed actions

1. Chain of responsibility training Ensuring and Monitoring the safety of transport activities (Trainer COR Australia)
2. Documenting and improving Prestart checks for vehicle loads/ dimensions (internal)
3. Re-fresher training on loading and unloading plant (external trainer, practical assessment)

### Section 2 Total cost of actions

- A. \$3000.00
- B. \$1875.00

## Part 2 General information

### Section 1 Purpose

4. 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

5. The commitments in this enforceable undertaking are offered to the NHVR by Darren Manton
6. 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:	[REDACTED]
Postal address:	[REDACTED]
Telephone:	[REDACTED]
Email address:	[REDACTED]
Legal structure:	Individual
Type of business:	NA. Employed as Truck driver [REDACTED]
Commencement of entity:	NA. Employment commenced 11/12/2006
Number of workers:	Nil
Products and/or services:	Freight and transport

#### Details of the alleged contravention

7. On 15 December 2022 at Cowra in the State of New South Wales, Darren Craig Manton, did without reasonable excuse drive a heavy vehicle, namely a white Volvo prime mover, bearing SA plates [REDACTED] in combination with a trailer bearing SA plate [REDACTED] on a road, namely Lachlan Valley Way, and did fail to ensure that the heavy vehicle, its components and load complied with the dimension requirements as prescribed by the NHVR, namely the assessed length measurement was 20.66 meters where the prescribed allowable length was 19 meters, thereby committing a severe risk breach. The NHVR Class 1

Oversize Notice was not valid as the load consisted of more than 1 non-divisible item.

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

8. On 15 December 2022, NHVR authorised officer observed our heavy vehicle travelling south on Lachlan Valley Way at Cowra NSW. The Heavy Vehicle was transporting a Lunchroom Caravan & Trencher Chain.
9. The Regulator's authorised officers intercepted the vehicle, spoke to the driver, and inspected the vehicle.
10. The operator drove the Vehicle from Dunedoo NSW to Cowra NSW.
11. As the load was more than 1 indivisible item, the vehicle reverted back to General dimension limit requirements meaning the vehicle over permitted width & length.
12. The regulator advised the driver to remove the caravan from the float & move the chain to make it under 2.5m wide.
13. The Caravan was removed and left in Cowra, and the chain was moved so the Vehicle complied with the NHVR Class 1 notice.

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

14. 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**

15. Darren Manton received a Court Appearance Notice to appear at the Cowra Local Court for the alleged contravention of Section 102(1)(b)(iii), Heavy Vehicle National Law (NSW) 2013. Darren Manton lodged a request to adjourn the date (granted for 7 June 23), due to his inability to make the requested court appearance date. This was further adjourned to the 30 August

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

16. [REDACTED] has a comprehensive safety management system in place which encompasses Chain of Responsibility compliance.
17. [REDACTED] has transport safety management systems in place to manage the procedures and responsibilities, this involves all levels of COR requirements, training and regular auditing
  - a. COR management plan, Document F272
  - b. COR Procedure, HSE-64
  - c. COR SWMS
  - d. Load and unload SWMS
  - e. Drivers, coordinators and managers are required to complete a level 1 and level 2 internal COR training
  - f. Internal audits are carried out 12 monthly on the COR area of the business
  - g. [REDACTED] utilise a Truck Drive Cam System which monitors driver and vehicle behaviour
  - h. External training to drivers and schedulers regarding loading and unloading course (RIIHAN308F)

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

18. Discussions have occurred between Darren Manton, and the Operations Manager, General Manager, Managing Director, HSEQ (Health and Safety and quality team) and operational teams within [REDACTED]

## **Section 3 Statements**

### **Statement of assurance**

19. Darren Manton 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 workers and others that have the potential to be affected by his business or undertakings.

### Statement of regret

20. Darren Manton deeply remorseful for the incident that occurred on 15 December 2022. Both Darren Manton and [REDACTED] are thankful that no harm was caused as a result of this breach and will use this as a means to improve our NHVR compliance.

### Statement of ability to comply

21. Darren Manton confirms he has the financial and operational capacity to comply with the terms of the enforceable undertaking.

### Statement granting permission to use

22. Darren Manton grants the NHVR permission to use any documents, policies and procedures developed as a result of this enforceable undertaking for the purpose of training and development by the NHVR.

### Statement of prior undertakings

23. Darren Manton confirms that he has not been the subject of an enforceable undertaking from another statutory body.

## Section 4 Acknowledgement

24. Darren Manton acknowledges that the NHVR alleges that he has contravened Section 102 (1) (b) (iii) of the HVNL.  
 25. The alleged contraventions are taken seriously by Darren Manton who is committed to operating in a safe manner, contributing to a safe and healthy workplace and conducting his services 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)

26. 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

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

## Section 6 Rectifications made

28. Darren Manton has carried out additional internal training to ensure he is following systems that identify, access and control risks which are designed to promote continual improvement which are a result of the alleged contravention. The below have been undertaken.

Description	\$ Amount
Darren Manton has carried out additional internal training with schedulers regarding over size and mass combinations using documentation sourced from NHVR	\$1,000.00
Darren Manton has carried out additional training with [REDACTED] Transport Coordinator on permits and how they are interpreted.	\$1,000.00
Darren Manton has carried out additional internal training with [REDACTED] Transport Coordinator on NHVR route planner (OSOM routes)	\$1,000.00

## **Section 7 Acknowledgement of publication**

29. Darren Manton 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 behavior that led to the alleged contravention has ceased and will not reoccur**

30. Darren Manton is committed to ensuring that the behavior 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**

31. Darren Manton is committed to the ongoing effective management of public risks associated with transport activities within business operations.
32. Darren Manton has a commitment to ongoing continuous improvement in how he manages risks associated with business operations, including being consulted with any new technology that becomes available.

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

33. Darren Manton 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 for [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**

34. Darren Manton is committed to participating constructively in all compliance monitoring activities of the EU.
35. Darren Manton acknowledges that responsibility for demonstrating compliance with the undertaking rests with him 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. Darren Manton 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**

38. As part of this enforceable undertaking, Darren Manton 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.
39. Darren Manton intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train, and raise awareness among the 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 training, Ensuring and Monitoring the safety of Transport Activities**

**Scope**

Improve the knowledge around CoR obligations for Darren Manton by undertaking training in the ensuring and monitoring the safety of Transport Activities (In line with TLIF0009, TLIF0014 and TLID0015)

**Details**

**The training takes staff through:**

- Legal obligations during loading and unloading activities.
- Preparing the goods for loading
- Loading the goods safely
- Securing and protect the goods appropriately.
- Unloading the goods safely at the destination
- Administer and monitor CoR workplace policies and procedures
- Completing relevant documentation

**Timeframe**

This activity is to be completed regardless of the outcome and within 6 months of the submitting of this enforceable undertaking

**Outcome**

Increased understanding of the risks associated with road transport for the loading and unloading of cargo as well as the risks for incorrectly loaded vehicles.

**Costs**

675.00

**Output**

Copies of the certificates for chain of responsibilities, loading/unloading course to be provided to the NHVR

**Activity 2 –Documenting Prestart checks for vehicle loads/ dimensions**

**Scope**

Darren to undertake and develop improved prestart checks that now consider additional information that ensures loads are within the oversize and over mass dimensions

**Details**

Darren carries out the pre-departure checklist each day that helps identify/alert him of the items that identify the trucks load as being over size/over mass. Darren is to be a part of the process to review and offer improvements to the check list on an ongoing basis This would include vehicles current length, width, and mass with questions about if this complies with current permits or transport requirements.

**Timeframe**

This activity is to be completed regardless of the outcome and within 6 months of the submitting of this forceable undertaking

**Outcome**

**Activity 2 – Documenting Prestart checks for vehicle loads/ dimensions**

Driver of the transport vehicles would have a clear set of criteria to follow and checklists to help alert them if they are over size/over mass and confirm to current permits/transport requirements.

**Costs**

450.00

**Output**

Output to be the prestart document created and samples of completed ones on the new form.  
Pre-start checks incorporate all compliance with NHVR loads/dimensions

**Activity 3 – Refresher Training for Darren Manton on loading and unloading plant**
**Scope**

The loading and unloading of plant from a transporter must be handled carefully to ensure the safety of workers in the area and the integrity of the plant. The course covers preparing plant for loading, including applicable permits and securing the equipment. They will go through the process of moving plant and unloading it safely.

**Details**

Loading for Transport (Load Restraint Guide RIIHAN308F) External training provider

- General Principles of Load Restraint
- Restraining Loads on Vehicles / Calculating Restraint Requirements
- Securing Equipment
- Types of restraint
- Lashing points
- Loads secured using correct load restraint

**Timeframe**

This activity is to be completed regardless of the outcome and within 6 months of the submitting of this forceable undertaking

**Outcome**

Increased understanding of the process of moving plant and unloading it safety including applicable permits and securing equipment.

**Costs**

\$650.00

**Output**

Improved understanding on loading and unloading plant  
Certificates to be provided to the NHVR

**Activity 4 – Donation to road Trauma Support Group NSW**
**Scope**

Donation to Road Trauma Support Group NSW. Road Trauma Support Group NSW is a non Profit organisation dedicated to helping support families of road trauma. It advocates for safe roads for all NSW road users with a special focus on providing support for families affected by road trauma death, the delivery of education and public awareness, and driving reforms to the criminal justice system with respect to road trauma deaths in NSW. It relies on donations from the community and external stakeholders

**Details**

Donation of \$100.00

**Timeframe**

**Activity 4 – Donation to road Trauma Support Group NSW**

With in the next 6 months

**Outcome**

The Donation will assist the road trauma support group in its mission to be an active advocate for safer roads for all road users in NSW

**Costs**

\$100.00

**Output**

Mr Manton will provide a receipt from the recipient of the donation with in the time frame specified

40. The total estimated value of the undertaking is \$1875.00

## Part 4 Offer of undertaking

**Executed as an Undertaking**

**Darren Manton**

Executed by **Darren Manton ABN:**

pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

<p><b>Signature</b></p> 	
Darren Manton – Individual	
<b>Date:</b> 27/10/2023	<b>Date:</b> Click or tap to enter a 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, Statutory Compliance</b>
RAYMOND HASSALL
<b>Name of Executive Director (print)</b>
<b>Date:</b> 08 Nov 2023