

# Enforceable Undertaking

## Chapter 10.1A

### Heavy Vehicle National Law

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

By

Ferrycarrig Construction Pty Ltd

ABN: 70 612 915 367

## Part 1 Executive summary

### Section 1 Agreed actions

1. Ferrycarrig Construction Pty Ltd (**Ferrycarrig Construction**) has committed itself to the following 9 agreed actions under this Enforceable Undertaking.
2. Ferrycarrig Construction will fit suitable mass measurement scales to the remaining trucks in its fleet of 6-10 wheeler trucks.
3. Ferrycarrig Construction will establish a scale calibration register to ensure that all scales are calibrated with sufficient regularity to ensure accuracy.
4. Ferrycarrig Construction will organise and deliver targeted in-house CoR training to be completed by members of the plant and safety team on site, with a specific focus on loading procedures.
5. Ferrycarrig Construction will book an external training service provider to provide business wide CoR awareness refresher training.
6. Ferrycarrig Construction will implement a system and working procedures to ensure that driver daily work sheets, that record the mass of each load carried by drivers each day, are entered into Assignar.
7. Ferrycarrig Construction will fit labels to its fleet of trucks (outside and inside on scale screens) showing the tare mass and load limits for each truck. Ferrycarrig Construction will also ensure that the fleet register is updated to record all tare weights, axle and gross mass limits for each truck.
8. Ferrycarrig Construction will take steps to ensure that the yard scales used to calibrate on-board mass measurement scales are themselves properly calibrated and fully-functioning.
9. Ferrycarrig Construction will engage external legal advisers to review the terms of its subcontracts, to ensure compliance assurance conditions and other CoR performance management provisions are included wherever relevant.
10. Ferrycarrig Construction will issue a 3-part LinkedIn post campaign on the critical components of load and mass management (equipment, training/procedure and verification checks).
- 11.

### Section 2 Total cost of actions

12. Total cost of rectification measures already made is approximately \$25,750.
13. Total cost of proposed and agreed measures is approximately \$139,000 for the duration of this enforceable undertaking.

## Part 2 General information

### Section 1 Purpose

14. 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 matters relating to alleged contraventions of the HVNL.

### Section 2 Details

15. The commitments in this enforceable undertaking are offered to the NHVR by Ferrycarrig Construction.
16. 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:	Australian Proprietary Company
Type of business:	Construction contractor
Commencement of entity:	09/06/2016
Number of workers:	Approximately 180 (as well as routinely engaging other skilled contractors)
Products and/or services:	Ferrycarrig Construction is a leading constructor of utilities and civil infrastructure. We are a multi-disciplined contractor with the in-house resources and the capabilities to deliver all aspects of our projects.
	We own and operate a large fleet of plant and equipment and employ a large, diverse workforce that has extensive experience delivering large and complex utilities and civil infrastructure projects.

### Details of the alleged contraventions

17. It is alleged by the NHVR that on 8 November 2022, Ferrycarrig Construction permitted, without reasonable excuse, another person to drive a heavy vehicle on a road and failed to ensure that the vehicle, the vehicle's components, and load complied with the applicable mass requirements, namely that:
  - a. the vehicle's 1<sup>st</sup> axle group exceeded the prescribed mass limit by 0.40 tonnes and contravened section 96(1)(b) of the HVNL;
  - b. the vehicle's 2<sup>nd</sup> axle group exceeded the prescribed mass limit by 3.65 tonnes and contravened section 96(1)(c) of the HVNL; and
  - c. the vehicle's overall gross vehicle mass (GVM) exceeded the prescribed mass limit by 4.60 tonnes and contravened section 96(1)(c) of the HVNL.
18. It is alleged by the NHVR that on 21 March 2023, Ferrycarrig Construction permitted, without reasonable excuse, another person to drive a heavy vehicle on a road and failed to ensure that the vehicle, the vehicle's components, and load complied with the applicable mass requirements, namely that:
  - a. the vehicle's GVM exceeded the prescribed mass limit by 5.45 tonnes and contravened section 96(1)(c) of the HVNL; and
  - b. the vehicle's 3<sup>rd</sup> axle group exceeded the prescribed mass limit by 5.10 tonnes and contravened section 96(1)(c) of the HVNL.

### Details of the events surrounding the alleged contraventions

#### November 2022 incident

19. The truck, driver and loader involved in the incident the subject of the proceedings listed in the Court Attendance Notices (CAN) issued on 8 March 2023 were all owned and/or employed by Ferrycarrig Construction.
20. On 8 November 2022, the truck was loaded with left over road base materials at Prospect Pump Station for it to be relocated to the M12 project site in Wetherill Park.
21. The driver was aware that the gross vehicle mass limit of the vehicle was 22.5 tonnes, which was displayed on the

side of the truck.

22. At the time, the truck was fitted with TruckWeigh mass measurement scales, described by their distributor as "TruckWeigh is an axle overload monitoring system which is specifically designed for vehicles with mechanical and/or air spring suspension, which provides vehicle operators real-time alerts when they are approaching their vehicle's legal load limits, enabling vehicle operators to prevent overloading" and "TruckWeigh provides real-time load monitoring capabilities so that vehicle operators know the precise weight of their vehicle load, allowing for increased payload optimisation" (<https://diverseco.com.au/vehicle-weighing-systems/onboard-vehicle-weighing/>). Further details of the TruckWeigh scales can be found at <https://www.vpgonboard.com/products/truckweigh>.
23. Once the truck was loaded, the driver assessed the load to be transported using installed on-board vehicle scales and observed that it was too heavy.
24. The driver removed some of the load with an excavator and ensured the material was level on the back of the truck (fore and aft and side to side). The driver also put a secondary lock on the back of the truck, securing the tail door.
25. The driver re-inspected the onboard scales and observed:
  - a. the truck's steer axle mass was measured to be 5,68 tonnes;
  - b. the truck's drive axle group mass was measured to be 16.22 tonnes; and
  - c. the truck's gross mass was measured to be 21.9 tonnes.
26. Observing that each measurement was below the permitted maximum mass of the vehicle, the driver commenced his journey.
27. At around 12:52pm, NHVR compliance officers intercepted and directed the truck into the work site at Victoria Street, Wetherill Park. The compliance officers spoke to the driver and confirmed his identity through his driver's license.
28. The truck's mass was weighed by one of the compliance officers using the Truckscan system in the presence of the driver. The driver was informed that the vehicle was over the prescribed mass limit.
29. The compliance officers issued the driver with a NHVR breach notice.
30. There is a material apparent discrepancy between the mass as weighed by the NHVR and the mass as measured by the fitted TruckWeigh scales. Ferrycarrig Construction asserts that the scales were calibrated in accordance with manufacturer's recommendations and should have been accurate. However, the printer on the yard scales used to calibrate onboard scales is not presently working. As such, Ferrycarrig Construction is unable to produce a record to demonstrate when calibration had been undertaken and to verify that calibration had been performed accurately.

#### March 2023 incident

31. The truck, driver and loader involved in the incident the subject of the proceedings listed in the CAN issued on 16 May 2023 were all owned and/or contracted and directed by Ferrycarrig Construction.
32. On 21 March 2023, the truck was loaded with waste concrete at the stabling yard at Grand Avenue, Camellia, New South Wales for disposal at Concrete Recyclers at 14 Thackeray Street, Camellia New South Wales.
33. At the time, the truck was fitted with Right Weigh mass measurement scales model DDG-02, described by their distributor as a "self-contained monitoring device that has two internal air pressure sensors" and is "designed to monitor one axle group that has two Height Control Valves (HCV) or two air suspension axle groups that have one HCV for each group" ([https://rightweigh.com.au/wp-content/uploads/2016/06/PP-003-0003\\_202-DDG-02\\_Universal-v1.pdf](https://rightweigh.com.au/wp-content/uploads/2016/06/PP-003-0003_202-DDG-02_Universal-v1.pdf)). These scales are thus able to "monitor several axle group combinations on almost any dedicated truck and trailer set by using a quick disconnect air-line between each vehicle" (<https://sctegparts.com.au/202-DDG-02-Right-Weigh-Interior-Digital-Axle-Load-Scale>).
34. Ferrycarrig Construction has a mass and dimension procedure in place which requires drivers to review the weighing scales on the truck and make sure the load is under-loaded before leaving the site. In accordance with that procedure, the driver assessed the load to be transported and observed that it was not too heavy and commenced his journey.
35. At around 1:16pm, NHVR compliance officers observed the truck travelling on Grand Avenue.
36. The compliance officers intercepted the vehicle, spoke to the driver and inspected the vehicle, its components and its load.
37. The truck mass was weighed by the compliance officers using the Truckscan system in the presence of the driver. The driver was informed that the truck was over the prescribed mass limit.
38. The compliance officers issued the driver with a NHVR breach notice.
39. Unfortunately, the Right Weigh scales fitted to the truck were not functioning properly at the time, which meant



that the driver's check and observation was, unbeknownst to him at the time, incorrect.

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

40. There were no injuries or financial loss that arose from the alleged contraventions.

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

41. For the alleged contravention on 8 November 2022:
  - a. NHVR Breach Report number [REDACTED] dated 8 November 2022;
  - b. Direction to secure, adjust or reduce load number [REDACTED] dated 8 November 2022;
  - c. CAN dated 8 March 2023 to appear at the Fairfield Local Court – substantial risk breach – first axle group;
  - d. CAN dated 8 March 2023 to appear at the Fairfield Local Court – severe risk breach – second axle group; and
  - e. CAN dated 8 March 2023 to appear at the Fairfield Local Court – severe risk breach – gross vehicle mass.
42. For the alleged contravention on 21 March 2023:
  - a. Transport for NSW, Roads and Maritime Service Breach Report Number [REDACTED] dated 21 March 2023;
  - b. CAN dated 16 May 2023 to appear at the Parramatta Local Court- severe risk breach- gross vehicle mass; and
  - c. CAN dated 16 May 2023 to appear at the Parramatta Local Court- severe risk breach- third axle group.

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

43. Ferrycarrig Construction has established safety management measures in place which encompasses Chain of Responsibility compliance, specifically, mass compliance.
44. Ferrycarrig Construction's safety management measures are supported by the following policies or working procedures reflecting the CoR risk management and mass management practices that were in place at the time of the incidents:
  - a. Chain of Responsibility Risk Register;
  - b. Chain of Responsibility Management Plan;
  - c. Chain of Responsibility Policy;
  - d. Induction training on Chain of Responsibility;
  - e. Mass and Dimension Policy and Procedure;
  - f. Installation of truck scales throughout fleet of 6 and 10 wheeler trucks;
  - g. Driver and loader training;
  - h. Incident reporting and investigation procedure;
  - i. Chain of Responsibility task observations; and
  - j. Chain of Responsibility non-conformances register for overloading incidents.
45. The measures listed above have been proactively pursued over several years as part of Ferrycarrig Construction's ongoing commitment to safety, before these two incidents and the bringing of these charges.

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

46. Following these two incidents, Ferrycarrig Construction has held discussions with its executives, senior management team and operational, health and safety management teams in relation to the circumstances leading up to the incidents, the circumstances of the incidents, the need to review the above measures to ensure that they are understood, being properly implemented and effective and, if not, any further measures required.
47. Ferrycarrig Construction has a firm corporate level commitment to safety and compliance with the law, in any jurisdiction in which we operate. Ferrycarrig Construction views this enforceable undertaking as an opportunity to further improve and ensure compliance within our company and contribute to a safe environment for everyone involved in the heavy vehicle industry and road users in general.

## Section 3 Statements

### Statement of assurance

48. Ferrycarrig Construction is committed to the broader safety of the heavy vehicle industry and the health and safety of our employees and will take all reasonably practicable steps within its capability to ensure compliance with our obligations under the HVNL and this enforceable undertaking.

### Statement of regret

49. Ferrycarrig Construction deeply regrets the mass breaches that occurred on 8 November 2022 and 21 March 2023.
50. Ferrycarrig Construction does not seek to breach the law in order to reduce its operating costs or obtain some other commercial competitive advantage. Ferrycarrig Construction is committed to operating safely and in accordance with the law.
51. Although no physical harm to road infrastructure or any persons occurred as a result of these incidents, Ferrycarrig Construction accepts that these incidents nonetheless represent significant safety incidents that gave rise to the risk of damage to infrastructure and safety.
52. Ferrycarrig Construction accepts that it was responsible for ensuring mass compliance of the vehicles in question and further accepts that it failed to do so. On behalf of Ferrycarrig Construction, we apologise for this failure.

### Statement of ability to comply

53. Ferrycarrig Construction has the financial and operational capacity to comply with the terms of this enforceable undertaking and will work hard to implement the outlined measures to prevent over-mass incidents from occurring in the future.

### Statement granting permission to use

54. Ferrycarrig Construction 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.
55. Ferrycarrig Construction retains copyright of all documents, policies, procedures and other material (such as videos, images and social media content) that are developed and provided in accordance with this enforceable undertaking.

### Statement of prior undertakings

56. Ferrycarrig Construction has not been subject to any prior undertakings from this or any other statutory body.

## Section 4 Acknowledgement

57. Ferrycarrig Construction acknowledges that the NHVR alleges that the company contravened sections 96(1)(b) and 96(1)(c) of the HVNL on 8 November 2022 and section 96(1)(c) of the HVNL on 21 March 2023.
58. The alleged contraventions are taken very seriously by Ferrycarrig Construction, its directors and senior management, who are committed to providing a safe workplace to conduct our business in a way that complies with the law and helps to ensure road safety, protect the environment and the communities in which it operates.

## Section 5 Details of Injury or Illness

### Types of workers compensation provided (if the injured person is a worker of the person)

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

### Support provided, and proposed to be provided, to the injured person to overcome injury/illness

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

## Section 6 Rectifications made

61. Ferrycarrig Construction 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 contraventions, the following opportunities for enhancement of processes have been undertaken (in addition to those already in place):

Description	\$ Amount (estimated)
Ferrycarrig Construction conducted an in-depth review of the current fleet of trucks and the scales that are fitted to the trucks. Ferrycarrig Construction contacted the manufacturers of the scales and received confirmation that Ferrycarrig Construction are using types of scales that are appropriate for each truck.	\$2,000
Ferrycarrig Construction convened an internal safety forum with the project teams, to provide details about the incidents and the learnings from the internal investigations.	\$6,750
Ferrycarrig Construction completed internal supervisor safety training, foreman safety training and specific COR training with employees. The details of the incidents and the learnings from the internal investigation was also discussed with employees	\$7,200
Ferrycarrig Construction issued a companywide Safety Alert in relation to both incidents to raise awareness and as part of ongoing training and awareness activities.	\$9,800
<b>Total cost p.a.</b>	

## Section 7 Acknowledgement of publication

62. Ferrycarrig Construction 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 contraventions has ceased and will not reoccur**

63. Ferrycarrig Construction is committed to ensuring that the behaviour that led to the alleged contraventions 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**

64. Ferrycarrig Construction is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
65. Ferrycarrig Construction 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**

66. Ferrycarrig Construction 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 Ferrycarrig Construction. This information will be disseminated through:

- a. For internal employees: Internal Safety forums, toolbox talks, CoR Task Observations, internal communications platform, email communication to our staff through our internal database.
- b. For external contractors and sub-contractors: Reviewing and updating contracts, safety alerts, subcontractor safety forums, post subcontractor assessments, onboarding and inductions of subcontractors coming on board.
- c. All email correspondence captured through document management system.

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

67. Ferrycarrig Construction is committed to participating constructively in all compliance monitoring activities of the enforceable undertaking.
68. Ferrycarrig Construction acknowledges that responsibility for demonstrating compliance with the undertaking rests with Ferrycarrig Construction and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
69. 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**

70. Ferrycarrig Construction 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 contraventions.

## **Section 2 Strategies that will deliver benefits**

### **Benefits to drivers and parties within the chain of responsibility**

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

### **Activities**

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#### **Activity 1 – Fit suitable mass measurement scales to any remaining trucks**

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##### **Scope**

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Finalise retro-fitting of suitable mass measurement scales to any trucks within the fleet of 6-10 wheeler trucks that do not have suitable scales fitted

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##### **Details**

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Ferrycarrig Construction owns and operates a fleet of 6-10 wheeler trucks. There are currently only two trucks that do not have scales fitted.

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##### **Timeframe**

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30<sup>th</sup> April 2024

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### Outcome

All of Ferrycarrig Construction's relevant fleet of trucks will be fitted with suitable mass measurement scales, consistent with:

- Confirm equipment used in the loading process including mass management is fit for purpose, regularly inspected and maintained, or calibrated as required (Master Code); and
- Drivers have equipment or methods for measuring mass and dimensions of a loaded vehicle at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/the-primary-duty/complying-with-your-primary-duty-obligations>.

### Costs

Estimated costs are \$2,500 per retro-fit, over an estimated 2 trucks, so \$5,000 in total.

### Output

[To be discussed with NHVR – suggested: Production of fleet register identifying trucks, fleet audit identifying trucks remaining to have scales fitted and invoices/work orders demonstrating fitting of scales].

## Activity 2 – Establish scale calibration register

### Scope

Establish a register or schedule of scale calibration intervals.

### Details

Ferrycarrig Construction owns and operates a fleet of 6-10 wheeler trucks, all of which are or will be fitted with mass measurement scales. To ensure that scales remain accurate, Ferrycarrig Construction will establish a register or schedule of manufacturer's recommended scale calibration intervals and ensure that all scales are calibrated in accordance with manufacturer's specifications within those recommended intervals, or earlier if something occurs which indicates that scale calibration may be materially out.

### Timeframe

All existing Heavy Vehicles that are currently fitted with scales will be calibrated within 1 month of acceptance of enforceable undertaking

Trucks that do not have scales installed will be calibrated upon installation and 3 months after installation.

### Outcome

All on-board mass measurement scales will be calibrated in accordance with manufacturer's recommendations, to ensure that mass measurement is accurate, consistent with:

- Confirm equipment used in the loading process including mass management is fit for purpose, regularly inspected and maintained, or calibrated as required (Master Code);
- Drivers have equipment or methods for measuring mass and dimensions of a loaded vehicle at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/the-primary-duty/complying-with-your-primary-duty-obligations>; and
- Implementing systems for recording, reporting and managing faults and non-compliance at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>.

### Costs

Estimated cost (internal) \$36,000.

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**Output**


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[To be discussed with NHVR – suggested: Production of scale calibration register, alongside any applicable manufacturer's recommendations as to calibration intervals].

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**Activity 3 – Targeted loading training for workers**


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**Scope**


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Loading procedure training for each site and to each relevant worker involved in loading or driving activities.

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**Details**


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Targeted in house COR training to be completed on site - focusing on loading procedures. This is to be completed by members of the plant team and safety advisors for site. A roster will be implemented for the delivery of this training at each site and to each relevant worker involved in loading or driving activities, consistent with:

- Providing information, training of policies, procedures and standards to employees at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>;
  - Implementing policies and procedures regarding the prevention of safety risks and strongly communicating these standards to employees and other parties at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>; and
  - Implementing systems for recording, reporting and managing faults and non-compliance at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>.
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**Timeframe**


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All training to be completed 9 months post finalisation of enforceable undertaking.

Ferrycarrig Construction intend to run one session per month for the next 9 months.

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**Outcome**


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All workers involved in loading operations will receive refresher training in the importance of load management and Ferrycarrig Construction's loading procedures.

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**Costs**


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Estimated cost (internal and external) \$45,000.

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**Output**


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[To be discussed with NHVR – suggested: Production of copy of training materials, alongside list of sites and relevant (by role) workers and training attendance registers].

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**Activity 4 – Refresher general CoR training**


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**Scope**


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External training services provider to be engaged to deliver business-wide CoR awareness refresher training.

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**Details**


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A suitably experienced external training services provider will be engaged to provide business-wide CoR awareness refresher training, as a reminder of the business' role and importance in managing CoR safety, consistent with:

- Providing information, training of policies, procedures and standards to employees at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>;
- Implementing policies and procedures regarding the prevention of safety risks and strongly communicating these standards to employees and other parties at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>; and
- Implementing systems for recording, reporting and managing faults and non-compliance at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>.

#### Timeframe

All training to be completed 12 months post finalisation of enforceable undertaking. All training to be held after rollout of targeted loading training.

#### Outcome

All Ferrycarrig Construction workers engaged in the provision of transport activities will be reminded of the business' role and responsibilities in the COR and the importance of ensuring the safety of transport activities.

#### Costs

Estimated cost \$10,500.

#### Output

[To be discussed with NHVR – suggested: Production of copy of training materials, alongside list of sites and training attendance registers].

#### Activity 5 – Load mass verification

##### Scope

Implement a system to provide for load mass verification

##### Details

Driver daily work sheets currently record the mass of each load carried by drivers each day.

Ferrycarrig Construction will implement a system and working procedures to ensure that such records are entered into Assignar, to permit ready compliance checks on load and vehicle mass requirements (amongst other things), consistent with:

- Implementing systems for recording, reporting and managing faults and non-compliance at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>.

#### Timeframe

4 months post acceptance of Enforceable Undertaking.

#### Outcome

Ensuring the electronic uploading of daily load records will better enable Ferrycarrig Construction to conduct mass compliance verification checks, detect non-compliances and activate necessary proactive performance

management discussions or, where required, broader awareness and training initiatives to ensure compliance with mass management policies and working procedures.

#### Costs

Estimated cost \$24,000.

#### Output

[To be discussed with NHVR – suggested: Production of sample copy of entered records and mass checks].

### Activity 6 – Identified truck mass limits

#### Scope

Fit labels to the fleet of 6-10 wheeler trucks (outside and inside on scale screens) showing the tare mass and load limits for each truck. Ensure that fleet register is updated to record all tare weights, axle and gross mass limits for each truck.

#### Details

Ferrycarrig Construction owns and operates a fleet of 6-10 wheeler trucks. Ferrycarrig Construction will conduct an audit to ensure that all such trucks are fitted with external labels and internal labels on or near the scale screen showing the tare weight and mass limits for each truck and ensure that the fleet register contains all such details consistent with:

- Identifying the mass and dimension requirements that apply to each vehicle and communicating that with employees at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>;
- Providing drivers with accurate load weights and dimensions before or at the point of loading at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>;
- Drivers and COR parties are aware of the mass and dimension limits applying to vehicles at <https://www.nhvr.gov.au/safety-accreditation-compliance/chain-of-responsibility/regulatory-advice/managing-the-risks-of-heavy-vehicle-transport-activities-in-the-construction-industry-operator>.

#### Timeframe

2 months after enforceable undertaking

#### Outcome

All loaders and drivers will know the maximum load and permitted loaded mass of every truck in the fleet. The external labels will ensure that loaders are aware of the maximum load of the truck when they are loading the vehicle to ensure that the vehicle is not overloaded in accordance with Ferrycarrig Construction's loading procedures. The internal labels will also ensure that drivers can readily confirm loaded mass compliance in accordance with Ferrycarrig Construction's loading procedures.

#### Costs

Estimated cost (internal) \$6,000

#### Output

[To be discussed with NHVR – suggested: Production of label design and photographs of labels affixed to each truck on fleet register].

### Activity 7 – Calibration of yard scales



**Scope**

Ensure yard scales used to calibrate on-board mass measurement scales are themselves properly calibrated and fully-functioning.

**Details**

Ferrycarrig Construction uses a set of scales located in its yard to calibrate on-board truck mass measurement scales.

Ferrycarrig Construction will include the manufacturer's calibration intervals in the truck scale register discussed above.

At present, the printer for the yard scales is offline, meaning that Ferrycarrig Construction is unable to produce records evidencing when truck scales were calibrated.

Consistent with:

- Confirm equipment used in the loading process including mass management is fit for purpose, regularly inspected and maintained, or calibrated as required (Master Code)

**Timeframe**

3 months after Enforceable Undertaking acceptance

**Outcome**

Calibration of on-board mass measurement scales will be conducted using a calibrated and fully functioning set of scales.

**Costs**

Estimated cost \$5,000.

**Output**

[To be discussed with NHVR – suggested: Production of scale calibration register, alongside any applicable manufacturer's recommendations as to calibration intervals].

**Activity 8 – Subcontractor contract review****Scope**

Ferrycarrig Construction will engage external legal advisers to review the terms of its subcontracts, to ensure compliance assurance conditions and other CoR performance-management provisions are included wherever relevant.

**Details**

Ferrycarrig Construction supplements its workforce using sub-contracted labour (including drivers) and equipment (including trucks). Ferrycarrig Construction will engage external lawyers to review sub-contractor pro forma contracts to ensure suitable CoR compliance assurance conditions are included in such contracts.

**Timeframe**

3 months after Enforceable Undertaking finalised

**Outcome**

Supplementing its policies and working procedures, Ferrycarrig Construction will ensure that contractors are aware of the compliance behaviours and performance expected of them whenever working for Ferrycarrig Construction.

**Costs**

Estimated cost \$5,500.

**Output**

[To be discussed with NHVR – suggested: Production of amended pro forma contracts].

**Activity 9 – Load management campaign****Scope**

Ferrycarrig Construction to issue a 3-part LinkedIn post campaign on the critical components of load mass management – equipment, training/procedure and verification checks.

**Details**

Ferrycarrig Construction will prepare and promote on LinkedIn a series of three posts on the critical components of load mass management – equipment (e.g. suitable trucks, fitted with suitable scales, properly calibrated), training/procedure (e.g. loading procedure, supported by training in how to do right and what to do when problems encountered) and verification checks (e.g. truck mass register, cross-referenced against driver load documents).

**Timeframe**

Stage 1 will be completed 3 months after EU acceptance.

Stage 2 will be completed 6 months after EU acceptance.

Stage 3 will be an ongoing activity after 6 months has elapsed.

**Outcome**

Social media safety campaign that can be shared and promoted online, in a forum already favoured by the NHVR for the promotion of safety messaging.

**Costs**

Estimated cost \$2,000

**Output**

[To be discussed with NHVR – suggested: Screenshot of posts].






73. The total estimated value of the undertaking is \$139,000

## Part 4 Offer of undertaking

Executed as an Undertaking


FERRYCARRIG CONSTRUCTION PTY LTD ABN: 70 612 915 367

Executed by FERRYCARRIG CONSTRUCTION PTY LTD ABN: 70 612 915 367 pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

	
Signature of Director	Signature of Director/Company Secretary
	
Name of Director (print)	Name of Director/Company Secretary (print)
Date:  18/9/23 Date: Click or tap to enter a date.	Date: 18/9/23 Date: 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:


Signature of Chief Executive Officer
Sal Petrocchio
Name of Chief Executive Officer (print)
27/09/2023
Date: Click or tap to enter a date.