

29 May 2025

Our Reference [REDACTED]

MAW Civil Holdings Pty Ltd

[REDACTED]  
[REDACTED]

To the proper officers

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

**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 MAW Civil Holdings Pty Ltd (A.C.N. 073 535 001)<sup>1</sup> (“**MAW**”) pursuant to Part 10.1A of the HVNL.

I have considered this proposal and assessed it against the National Heavy Vehicle Regulator (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 contravention alleged in this case.

**The Alleged Facts**

2. On 15 March 2023 at Brighton, in the State of Victoria, MAW permitted another person to drive a heavy vehicle of which the trailer axle group exceeded the prescribed mass limit, contrary to section 96(1)(c) of the HVNL.
3. Specifically, MAW permitted another person to drive a heavy vehicle, namely a prime mover registration number [REDACTED] with trailer registration number [REDACTED] on a road without ensuring that the heavy vehicle, its components and load, complied with the applicable mass

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<sup>1</sup> MAW Civil Holdings Pty Ltd (A.C.N. 073 535 001), Enforceable Undertaking Proposal pursuant to Chapter 10.1A of the HVNL.

requirements, namely the quad-axle group of the vehicle exceeded the prescribed mass limit of 20.0 tonne being the limit of the relevant single axle or axle group as applied by Section 4 and set out in Table 1 of Schedule 1 of the Heavy Vehicle (Mass Dimension and Loading) National Regulation and contrary to section 96(1) of the Heavy Vehicle National Law.

- 1) Permitted mass – 20 tonne.
  - 2) Mass detected - 46.30 tonne.
  - 3) Mass alleged - 44.216 tonne.
  - 4) This is 221% of prescribed mass limit.
  - 5) This is a severe risk breach.
4. The NHVR commenced a prosecution against MAW, alleging the contravention. The maximum penalty available for the offence is \$173,050.
  5. The EU proposal from MAW comprises three (3) initiatives to be completed by within 30 days of the EU being executed, and would amount to a total estimated cost of \$24,310.
  6. The three (3) initiatives can be summarised as follows. MAW undertakes to:
    - a. Engage an external training provider to provide internal load capacity and weight training to its employees;
    - b. Create a detailed loading and pre-departure checklist for employees to comply with when loading vehicles; and
    - c. Create a Low Loader Procedure Manual to address concerns regarding the future loading of MCH heavy vehicles.

#### **Criteria to be applied**

7. 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 offence 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 provide, into the future to an injured or affected person;
  - 9) The likely outcome should the matter be dealt with through legal proceedings and the extent to which the total value of the proposed activities exceeds the reasonable expectations of a court outcome; and
  - 10) Reports or assessments of investigating or prosecuting agencies who have conduct of the matter.
8. With regards to criteria (1) and (2), I have considered the nature and extent of the conduct alleged and MAW's compliance history. The conduct is serious and created a serious risk to road users and road infrastructure. I acknowledge, however, that prior to these allegations, there have been no convictions for compliance breaches of the HVNL or any breaches of related safety duties by Defendant.
9. With regards to criteria (3), (4) and (5), I acknowledge and have considered that the EU proposal initiatives may benefit the public beyond compliance with 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 MAW's transport operations. In relation to benefit to the public beyond compliance with the law, I consider this is marginal. In this regard, I note MCH grants the NHVR permission to use any documents, policies procedures or other details developed as a result of this EU for the purposes of future training or development by the NHVR, and that it will disseminate information about the enforceable undertaking to parties in the chain of responsibility.

10. With regards to criteria (6) and (7), I acknowledge that MAW has the ability to meet the terms of the EU proposal and have taken into account the significance of the EU commitment, compared to MAW's capability.

11. I consider that criteria (8) is not relevant to this matter.

12. With regards to criteria (9) and (10), concerning the likely outcome should this matter be dealt with through legal proceedings and the views of investigating and prosecuting agencies, I consider that the value of the undertaking (\$24,310) is probably more than a fine that would be imposed by a Court. I also note that the Investigating Officer strongly supports the acceptance of the EU, has worked closely with MAW since the offending, and considers that MAW is taking the issue seriously and is spending substantial time and money to improve its business practices.

#### Conclusion

13. Considering all of these criteria, I am of the opinion that it is appropriate to accept the EU proposal as an alternative to prosecution. Consequently, I have decided to accept the proposed EU and advise that the legal proceedings against MAW will be withdrawn.

Yours sincerely

A large black rectangular box redacting the signature of Paul Alsbury.

Paul Alsbury  
**Executive Director, Statutory Compliance**