

ENFORCEABLE UNDERTAKING

Chapter 10.1A

Heavy Vehicle National Law 2013 (NSW)

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

by

Brother Nature Pty Ltd

ABN: 17 168 125 451

PART 1 - EXECUTIVE SUMMARY

Section 1: Agreed actions

1. Formal training for key personnel;
2. Design & implementation of Heavy Vehicle & general transport systems and processes (informed by formal training); and
3. Develop and deliver training course for all existing and new team members, to educate and inspire regarding outcomes of Activities 1 and 2, via a repeatable, digital format.

Section 2: Total cost of actions

4. The cost to conduct Activity 1 is estimated to be \$7,454;
5. The cost to conduct Activity 2 is estimated to be \$15,000; and
6. The cost to conduct Activity 3 is estimated to be \$16,000.
7. The estimated value of the undertaking is \$38,454.

PART 2 - GENERAL INFORMATION

SECTION 1 - PURPOSE

8. The purpose of this Enforceable Undertaking (EU) is to document the undertakings offered to the National Heavy Vehicle Regulator (NHVR) pursuant to Chapter 10.1A of the *Heavy Vehicle National Law* 2013 (NSW) (HVNL) in connection with a matter relating to an alleged contravention of the HVNL.

SECTION 2 - DETAILS

9. The commitments in this enforceable undertaking are offered to the NHVR by Brother Nature Pty Ltd (**Brother Nature**).
10. 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	c/- Savva & Roubis Chartered Accountants Tower 1, Level 16, Suite 1603A 520 Oxford St Bondi Junction NSW 2022
Postal address	15 Dale St Brookvale NSW 2100
Telephone	02 7228 7980
Email address	
Legal structure	Proprietary Limited Company
Type of business	Residential Construction
Commencement of entity	2014
Number of workers	5
Products and/or services	Brother Nature Build is a small residential construction and carpentry service specialising in high-end home renovations in Sydney and rural NSW

Details of alleged contravention

11. It is alleged by Transport for NSW (TfNSW) that on 23 June 2021, Brother Nature failed to comply with the mass requirements as required by section 96(1)(c) of the HVNL.

Details of the events surrounding the alleged contravention

12. On 23 June 2021 at 09:58, a NSW registered heavy vehicle operated by Brother Nature was weighed at New England Highway, Kankool NSW. It is alleged that the weight detected on Axel Group 3 was 1.02 tonnes, 36% in excess of the statutory limit of 0.75 tonne, and that the vehicle did not comply with the mass requirements applying to the vehicle or the vehicle's components and the load.

Details of any injury or financial loss that arose from the alleged contravention

13. There were no injuries or financial loss that arose as a result of the alleged contravention.

Details of any notices issued that relate to the alleged contravention

14. Brother Nature received a Court Attendance Notice dated 23/07/2021, with CAN ID 286841, in respect of the alleged contravention, in relation to a hearing before the Quirindi Local Court of NSW.

Details of any existing transport safety management systems at the workplace including the level of auditing currently undertaken

15. Brother Nature does not currently have comprehensive safety management systems in place, which relate to transport.
16. Transporting heavy equipment is incidental to Brother Nature's operations, and is usually outsourced to experienced and suitably qualified contractors who specialise in this field.

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

17. Consultation has been undertaken regarding the proposal of this EU, within the management teams and operational teams.
18. Consultation has been undertaken with regular subcontractors to ensure the relevance, appropriateness and achievability of the strategies proposed in the EU.
19. In particular, those employees and subcontractors who may carry out work related to transport, were consulted. This includes field staff and administration staff.
20. The strategies and deliverables proposed in this EU were designed with input from these stakeholders, to ensure they would generate the maximum benefit for the Brother Nature community, our industry and peers, and the broader community.

SECTION 3 - STATEMENTS**Statement of assurance**

21. Brother Nature confirms that it is committed to complying with its 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 impacted by its business or undertakings.

Statement of regret

22. Brother Nature regrets that the incident on 23 June 2021 occurred.

Statement of ability to comply

23. Brother Nature confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement granting permission to use

24. Brother Nature 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.

SECTION 4 - ACKNOWLEDGEMENT

25. Brother Nature acknowledges that TfNSW alleges that Brother Nature has contravened section 96(1)(c) of the HVNL.
26. The alleged contraventions are taken very seriously by Brother Nature, its Directors and Senior Management, who are committed to providing a safe and healthy workplace to conduct its business in a way that helps 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)

27. Not applicable. No injuries were sustained to any persons as a result of the alleged contraventions.

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

28. Not applicable. No injuries were sustained to any persons as a result of the alleged contraventions

SECTION 6 - RECTIFICATIONS MADE

Any rectifications made as a result of the alleged contravention

29. Brother Nature 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:

Item No.	Description	\$ Spent (estimated internal costs)
22a.	3x Toolbox Talks (Sydney, Jindabyne, Kiah locations) focused on correct and complete procedure for loading heavy vehicles and their components - importance, responsibility and consideration	\$2,500
22b.	3x Toolbox Talks (Sydney, Jindabyne, Kiah locations) focused on correct and complete procedure for collecting heavy vehicles and their components - importance, responsibility and consideration	\$2,500
22c.	3x Toolbox Talk and practical workshops (Sydney, Jindabyne, Kiah locations) focused on correct and complete procedure for restraining loads	\$2,500

30. The total amount spent on enhancement and rectifications following the alleged contravention is \$7,500.

SECTION 7 - ACKNOWLEDGEMENT OF PUBLICATION

31. Brother Nature 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

32. Brother Nature 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

33. Brother Nature is committed to the ongoing effective management of public risk associated with transport activities within its business operations.

34. Brother Nature 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

35. Brother Nature is committed to disseminating information about the EU to workers and other relevant parties within the chain of responsibility, including Brother Nature's senior and operational management, health and safety representatives, workers and all relevant subcontractors working for Brother Nature.

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

36. Brother Nature is committed to participating constructively in all compliance monitoring activities of the EU. It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with Brother Nature, and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
37. The evidence provided to demonstrate compliance with this undertaking will be retained by the person who has given this undertaking until advised by the NHVR that this undertaking has been completely discharged.
38. It is acknowledged that NHVR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to 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

39. Brother Nature is committed to ensuring that any promotion of a benefit arising from this EU 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

40. As part of this enforceable undertaking, Brother Nature aims to deliver strategies that will focus on:
- a. benefits to the drivers and parties in the chain of responsibility;
 - b. benefits to the transport and construction industries; and
 - c. benefits to the broader community.

41. Brother Nature intends to achieve these outcomes through the implementation of the following strategies that aim to educate, train and raise awareness about the chain of responsibility laws:

34a. Activity 1: Formal training for key personnel

Benefits to Drivers and parties in the chain of responsibility; the construction industry

Objective / Scope Establish within the workplace, a solid foundation of understanding regarding Chain of Responsibility legislation, responsibilities, and best practice procedures for transport operations

Details Formal training to key personnel in transport safety laws will enable those personnel to design, implement, practice and monitor correct transport systems to ensure safety and compliance in the future. Key personnel include all staff who drive or instruct heavy vehicles plus management staff who are key to safety, compliance and system implementation.

Courses that will be undertaken are:

i. TLIF0009 - Ensure the Safety of Transport Activities (CoR)

Full, official accredited course as outlined in the Unit of Competency TLIF0009:– to develop the skills required to identify, apply & follow CoR Regulations that are applicable to the individual's job role.

ii. TLIF0014 - Monitor the Safety of Transport Activities (CoR)

This unit relates to implementing Chain of Responsibility regulations. It includes identifying and preventing relevant regulations; and reviewing operations in line with Chain of Responsibility regulations. Participants actively work through how to implement their documents, policies, and procedures.

Of the four key personnel who undertake course TLIF0009, two of those personnel will undertake further training by way of course TLIF0014.

Audience 4x key personnel, including all staff who drive or instruct heavy vehicles plus management staff who are key to safety, compliance and system implementation.

Outcome

- Supporting the NHVR's vision for improving safety and safety culture across the heavy vehicle supply chain and workforce through increased learning and development outcomes
- Assisting to transfer the expertise and compliance procedures which exist within the heavy vehicle supply chain and workforce, to the construction industry (particularly those businesses in Brother Nature's immediate community, ie. staff and regular subcontractors)

Output	Certificate of Completion prior to handing in assessments plus Statement of Attainment once assessments are passed, along with any other available materials from the course
Delivery	<p>TLIF0009: online modules to be worked through at own pace, with assessments to be handed in afterwards (estimate 5-6 hours plus assessments)</p> <p>TLIF0014: online modules to be worked through at own pace, with assessments to be handed in afterwards (estimate 6-8 hours plus assessments)</p>
Timeframe	Within 6 months from acceptance of the EU
Costs	<p>Training course hard costs: \$1,454</p> <p>4 people for 2 days at 750/day for their time = \$6,000</p> <p>Estimate total cost = \$7,454</p>
34b.	Activity 2: Design & implementation of HV & general transport systems and processes (informed by formal training)
Benefit to	Drivers and parties in the chain of responsibility; the construction industry
Objective / Scope	Develop correct and complete safety management systems and processes to be followed to ensure safety and compliance in the workplace with regard to transport activities
Details	<p>Examination of existing business practices and system controls against known risks, and recognised best practice.</p> <p>Development of detailed safety management systems regarding transport and HV operations, which may include:</p> <ul style="list-style-type: none"> • Inspection Test Plans • HV mass spec sheets for Brother Nature owned / controlled / equipment in use • Development of SWMS related to transport activities • Others as identified via Activity 1 • Monitoring and tracking/reports on compliance with systems <p>The subject matter, form and content of these systems will be heavily informed by the formal training undertaken in Activity 1.</p>
Audience	Key personnel as identified in Activity 1
Outcome	<ul style="list-style-type: none"> • Supporting the NHVR's vision for improving safety and safety culture across the heavy vehicle supply chain and workforce through increased learning and development outcomes • Educate all team members to raise the collective understanding of

	Brother Nature's and individual responsibilities <ul style="list-style-type: none"> • Establish processes and procedures to be followed to ensure safety and compliance in the workplace
Output	Written materials detailing the resulting systems and processes
Delivery	Workshops will be conducted amongst the key personnel trained in Activity 1, followed by a smaller team drafting written materials which will become guidance documentation for use when implementing and monitoring the systems in practice. Documentation to be reviewed by the full team of key personnel trained before finalisation.
Timeframe	Within 12 months of acceptance of the EU
Costs	Estimated \$15,000
34c	Activity 3: Develop training course for all existing and new team members, to educate and inspire regarding outcomes of Activities 1 and 2, via a repeatable, digital format
Benefit to	Drivers and parties in the chain of responsibility; the construction industry
Objective / Scope	<ul style="list-style-type: none"> • Educate all relevant current and new team members regarding Chain of Responsibility legislation and other knowledge gained via Activity 1 • Train all relevant current and new team members in the systems and processes developed in Activity 2 • Ensure the new transport knowledge, skills and systems are implemented into the fabric of Brother Nature's onboarding and management processes • Ensure new systems and process are utilised consistently and correctly
Details	<p>A digital training course will enable Brother Nature to deliver training to all relevant existing and new team members at a low cost, and to control the quality of the training.</p> <p>The course will address the key risk areas of transport and HV operations, and be tailored to the equipment and operations of Brother Nature, specifically:</p> <ul style="list-style-type: none"> • Overview of course materials learned in Activity 1 • Emphasise the importance of the Chain of Responsibility and the seriousness of safety and compliance • Relate the course content to Brother Nature's values of safety • Practical demonstrations of various operational tasks to do with HV and transport activities • Details of systems developed in Activity 2, and the responsibility of each person with regard to these systems • Procedure for reporting compliance breaches and instruction for

PART 4 - OFFER OF UNDERTAKING

Executed as an Undertaking

Executed by Brother Nature (ACN 168 125 451) pursuant to section 127(1) of the Corporations Act 2001 (Cth) by:



Signature of Director



Name of Director (print)

Date 21.9.2021

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 Office

SAL PETROCCHIO

Name of Chief Executive Officer (print)

Date 27/9/2021

where further support can be obtained

This course outline will be developed following Activities 1 and 2.

Audience	<ul style="list-style-type: none">• All relevant existing Brother Nature team members• All new Brother Nature team members who will be involved in transport operations or administration/monitoring of transport operations• Existing team members who require refresher training
Outcome	<ul style="list-style-type: none">• Supporting the NHVR's vision for improving safety and safety culture across the heavy vehicle supply chain and workforce through increased learning and development outcomes• Educate all team members to raise the collective understanding of Brother Nature's responsibilities• Implement processes and procedures to be followed to ensure safety and compliance in the workplace
Output	A copy of training materials developed and attendance / induction records of any attendees within the timeframe
Delivery	Online induction software (TBA)
Timeframe	Within 18 months acceptance of the EU
Costs	Development of course curriculum = \$5,000 Software: estimated \$4,000 setup plus \$4,000 / year Translation of curriculum into digital format (script writing / filming / editing) = \$3,000 Total cost of Activity 3 including 1 year of software = \$16,000

TOTAL ESTIMATED VALUE OF THE UNDERTAKING: \$38,454