

ENFORCEABLE UNDERTAKING

Chapter 10.1A

Heavy Vehicle National Law

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

By:

**Boss Logging Pty Ltd
(Trading as Boss Forestry)
ABN 23 110 262 274**

PART 1 – GENERAL INFORMATION

Purpose

1. 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 Application Act 2013* (Vic) (HVNL) in connection with alleged contraventions of the HVNL.

SECTION 1 - DETAILS

2. The commitments in this enforceable undertaking are offered to the NHVR by Boss Logging Pty Ltd (Boss Forestry).
3. 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.

The details of the person proposing the undertaking

Registered address:	450 Forge Creek Road, Bairnsdale VIC, 3875
Postal address:	450 Forge Creek Road, Bairnsdale VIC, 3875
Telephone:	0427 575 198
Email address:	[REDACTED]
Legal structure:	Proprietary Limited Company
Type of business:	Harvest and Haulage
Commencement of entity:	2004
Number of workers:	18
Products and/or services:	Boss Logging is contracted by VicForests to harvest and haul timber from designated harvest sites within Victoria's state native forests.

The details of alleged contravention

4. It is alleged by NHVR that on 3 April 2020 Boss Forestry failed to comply with the mass requirements as required by section 96(1)(c) of the HVNL and failed to comply with the loading requirements as required by section 111(1)(b) of the HVNL.

The details of the events surrounding the alleged contravention

5. On 3 April 2020 a registered heavy vehicle operated by Boss Forestry was weighed at Lind Avenue in Dargo. It is alleged that the weight detected on the Steer axle was 7,000kg, an overload percent of 107.69% of the statutory limit of 6,500kg. It is alleged the weight detected on the Drive axle group was 28,350kg, an overload percent of 171.82% of the statutory limit of 16,500kg.

6. It is alleged there was insufficient load restraint applied to the load. The chains and angles were measured and the following was determined, Lashing L1 Forward – 15.19% of the required restraint, Lashing L1 Sideways – 6.07% of the required restraint, Lashing L2 Rearwards – 39.82% of the required restraint, Lashing L2 Sideways – 6.07% of the required restraint.

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

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

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

8. Boss Forestry received a letter from NHVR dated 10 May 2021 (Reference 2298) with a charge sheet and summons to attend the Magistrates Court in Bairnsdale.
9. The driver of the heavy vehicle employed by Boss Forestry, received a letter from NHVR dated 10 May 2021 (Reference 2973) with a charge sheet and summons to attend the Magistrates Court in Bairnsdale.

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

10. Boss Forestry has a comprehensive management system which includes transport safety management and chain of responsibility compliance.
11. The management system addresses the requirements of the HVNL in relation to mass management, weight distribution, vehicle dimensions, load restraint, fatigue management, speed management and vehicle standards.
12. Boss Forestry have implemented risk controls to ensure HVNL compliance. These risk controls include vehicular OHS electronic management systems, vehicular weighing systems, vehicular sleeping bunks, electronic fatigue management system, vehicular speed management and monitoring systems, vehicular driving aids, safe working procedures, inspection programs, training and induction programs.
13. The management system is subject to monthly, quarterly and annual auditing. The management system is audited internally and by a third party.

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

14. Consultation has been undertaken regarding the proposal of this EU. Consultation has occurred within the management teams and operational teams.

SECTION 2 – STATEMENTS

Statement of assurance

15. Boss Forestry 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 other persons that have the potential to be impacted by its business or undertakings.

Statement of regret

16. Boss Forestry regrets that the incident on 3 April 2020 occurred.

Statement of ability to comply

17. Boss Forestry confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

Statement of granting intellectual property licence

18. Boss Forestry grants the NHVR a permanent, irrevocable, royalty-free, worldwide non-exclusive licence to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking.

SECTION 3 – ACKNOWLEDGEMENT

19. Boss Forestry acknowledges that NHVR alleges that Boss Forestry has contravened section 96(1)(c) and section 111(1)(b) of the HVNL.

20. The alleged contraventions are taken very seriously by Boss Forestry, its director and management team, 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 4 – DETAILS OF INJURY OR ILLNESS**Type of workers compensation provided (if the injured person is a worker of the person)**

21. 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

22. No injuries were sustained to any persons as a result of the alleged contraventions.

Any rectifications made as a result of the alleged contravention

23. As a result of the alleged contraventions the following opportunities for enhancement of processes have been undertaken:

Description	Amount (\$) (estimated internal / external costs)
Discussions with staff and consigner that transport of loads will not be permitted on roads where truck dolly cannot be used.	\$1000.00
Verbal retraining of load restraint procedures to staff.	\$1500.00

Review of low loader management procedure.	\$2000.00
Review of transporting plant with low loader procedure.	\$2000.00
Rollover prevention training.	\$3000.00

24. The total amount spent on enhancement and rectifications following the alleged contraventions is \$9,500.00.

SECTION 5 – ACKNOWLEDGEMENT OF PUBLICATION

25. Boss Forestry acknowledges that the enforceable undertaking will be published on the NHVR's website and may be referenced in the NHVR's publications.

PART 2 – ENFORCEABLE TERMS

SECTION 1 – COMMITMENTS

26. Commitment that the behaviour that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent reoccurrence.

Commitment to the ongoing effective management of public risk associated with transport activities

27. Boss Forestry is committed to the ongoing effective management of public risk associated with transport activities within its business operations.

28. Boss Forestry 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

29. Boss Forestry is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility including the consignor, consignee, Boss Forestry's senior management, operational management, and all relevant subcontractors working for Boss Forestry.

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

30. Boss Forestry is committed to participating constructively in all compliance monitoring activities of the EU. It is acknowledged that responsibility for demonstrating compliance with the undertaking rests with Boss Forestry.
31. The evidence to demonstrate compliance with this undertaking will be retained by Boss Forestry until advised by the NHVR that this undertaking has been completely discharged.
32. 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 clear that the undertaking was entered into as a result of the alleged contraventions

33. Boss Forestry 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

34. As part of this enforceable undertaking, Boss Forestry 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 forestry industry; and
 - c) benefits to the broader community
35. Boss Forestry intends to achieve these outcomes through the implementation of the following activities that aim to educate, train and raise awareness about the HVNL and chain of responsibility:
- a. Activity 1 – Chain of responsibility training for workers
 - b. Activity 2 – Chain of responsibility training for management
 - c. Activity 3 – Load restraint training for workers and management
 - d. Activity 4 – Expert review of load restraint and mass management
 - e. Activity 5 – Driving forestry roads training and awareness program
 - f. Activity 6 – Heavy vehicle safety barbeque
 - g. Activity 7 – Development of a YouTube video to promote heavy vehicle safety

Benefits to the drivers and parties within the chain of responsibility

36. Chain of responsibility training for workers (Activity 1).

Activity 1 – Chain of responsibility training for workers

Objective: The objective of this activity is to raise awareness, knowledge and skills in relation to HVNL and chain of responsibility. The chain of responsibility training will be provided to address the key risks associated with heavy vehicles in the forestry industry.

Scope: Chain of responsibility training will be provided to all workers of Boss Forestry.

Details: The training will include the following components:

1. Identification of transport activities and parties in the chain of responsibility
2. Principle of shared responsibility obligations within chain of responsibility in the HVNL
3. Primary duty of each party in the chain of responsibility as outlined in the HVNL
4. So far as reasonably practicable or reasonable steps, compliance with chain of responsibility as outlined in the HVNL
5. Breaches and penalties for failure to comply with chain of responsibility as identified in the HVNL
6. Workplace policies, procedures and other documents relevant to transport activities
7. Methods and requirements to facilitate and ensure management of speed and fatigue
8. Methods to assess vehicle dimension and mass limits
9. Methods to ensure loads are secured
10. Heavy vehicle safety standards
11. Management of transport risks in accordance with workplace procedures
12. Workplace procedures and industry practices for reporting transport risks
13. Documentation relevant to chain of responsibility

Timeframe: Training will be completed within 12 months of acceptance of this enforceable undertaking.

Estimated Cost: \$5000.00

Output: A copy of the training record will be submitted to NHVR as evidence of this deliverable.

37. Chain of responsibility training for management (Activity 2).

Activity 2 – Chain of responsibility training for management

Objective: The objective of this activity is to raise awareness, knowledge and skills in relation to HVNL and chain of responsibility. The chain of responsibility training will be provided to address the key risks associated with heavy vehicles in the forestry industry.

Scope: Chain of responsibility training will be provided to management of Boss Forestry.

Details: The training will include the following components:

1. Identification of transport activities and parties in the chain of responsibility
2. Principle of shared responsibility obligations within chain of responsibility in the HVNL
3. Primary duty of each party in the chain of responsibility as outlined in the HVNL
4. So far as reasonably practicable or reasonable steps, compliance with chain of responsibility as outlined in the HVNL
5. Breaches and penalties for failure to comply with chain of responsibility as identified in the HVNL
6. Workplace policies, procedures and other documents relevant to transport activities
7. Management and monitoring of speed and fatigue
8. Management and monitoring of mass limits and vehicle dimensions
9. Management of load restraint
10. Management and monitoring of heavy vehicle safety standards
11. Management of transport risks in accordance with workplace procedures
12. Management and monitoring of workplace records
13. Reporting of transport risks
14. Communication of workplace policies and procedures in relation to chain of responsibility
15. Management and monitoring of workplace policies and procedures in relation to chain of responsibility
16. Corrective actions in relation to non-compliance with chain of responsibility
17. Identification of transport risks and safety duties in accordance with job function and workplace procedures
18. Analysing current hazards and risk information in a timely manner and appropriate mitigation actions considered
19. Allocation of resources in accordance with job function and workplace procedures
20. Implementation of risk control measures and mitigation processes in accordance with workplace procedures

Timeframe: Training will be completed within 12 months of acceptance of this enforceable undertaking.

Estimated Cost: \$4000.00

Output: A copy of the training record will be submitted to NHVR as evidence of this deliverable.

38. Load Restraint training (Activity 3).

Activity 3 – Load Restraint Training

Objective: The objective of this activity is to raise awareness, knowledge and skills in relation to HVNL and chain of responsibility. Load restraint training will be provided to ensure loads are safe and correctly secured and in compliance with the HVNL.

Scope: Load restraint training will be provided to management and workers of Boss Forestry to ensure loads are restrained in accordance with the Load Restraint Guide.

Details: This training will involve both theory and practical components and will include the following:

1. The reasons we need to restrain loads
2. HVNL and how it applies to load restraint
3. Duties under the HVNL and chain of responsibility
4. Key elements of a load restraint system
5. The different types or principles of load restraint systems
6. Choosing a suitable load restraint system:
 - Direct verse indirect
 - Contained
 - Blocked
 - Friction levels
 - Ropes
 - Straps
 - Chains
7. Different types of loads:
 - General freight
 - Packs of articles
 - Palletised freight
 - Vehicles, plant and mobile equipment
 - Logs
8. Restrain tensioners
9. Tensioner downforce
10. Restrain ratings, load restraint capacities

The training course will be targeted to the transport of logging, forestry and sundry equipment and general load restraint requirements.

Timeframe: Training will be completed within 12 months of acceptance of this enforceable undertaking.

Estimated Cost: \$3000.00

Output: A copy of the training record will be submitted to NHVR as evidence of this deliverable.

39. Expert review of load restraint and mass management (Activity 4).

Activity 4 – Expert review of load restraint and mass management

Objective: The objective of this activity is to identify any additional opportunities for improvement and best practice methods in relation to compliance with mass management and load restraint requirements.

Details: Boss Forestry will engage an engineering consultant to review and provide recommendations in relation to the safe transport of heavy plant in consideration of:

1. Load restraint requirements pursuant to the Load Restraint Guide
2. Load restraint equipment pursuant to the Load Restraint Guide
3. Mass management pursuant to the HVNL and existing permits
4. Weight distribution pursuant to the HVNL and existing permits

The engineering consultant will:

- Review geometry of heavy plant and low loader.
- Review locations for lashing points and load restraint equipment.
- Complete necessary engineering for restraint systems.
- Complete calculations for placement of units on low loader to ensure compliance with maximum axle load requirements.
- Generate load restraint guideline documentation in a diagrammatic format.
- Verify weight distribution of loads for mass requirements.
- Complete review of documentation.
- Update existing load restraint procedures with agreed changes as necessary.
- Complete engineering certifications necessary.

Timeframe: This activity will be completed within 12 months of acceptance of this enforceable undertaking.

Estimated Cost: \$25,626.00

Output: A copy of the documentation produced will be submitted to NHVR as evidence of this deliverable.

Benefits to the transport and forestry industry

40. Driving forestry roads training and awareness program (Activity 5)

Activity 5 – Driving forestry roads training and awareness program

Objective: The objective of this activity is to reduce incidents by promoting awareness of heavy vehicle safety and to communicate important safety information to the forestry industry and the broader community.

Strategies: This activity will enhance driver safety by providing education and awareness of safe driving techniques to the forestry industry.

Details: Boss Forestry will partner with Australian Trucking Safety Services & Solutions in assisting the development of a training and awareness program. The training and awareness program will be targeted to the forestry industry and will promote heavy vehicle safety.

The details of this activity include:

1. The program will include a heavy vehicle safety video which will illustrate safe driving techniques for driving on forestry roads.
2. A heavy vehicle will be loaded with logs and will drive a simulated forestry route in a safe environment on private property.
3. The simulated route will include navigating challenging corners and other hazards which may be present on forestry roads.
4. The video will illustrate the safe driving techniques required to safely navigate such hazards on the roads.
5. Boss Forestry will provide a loaded heavy vehicle and driver to assist with the development of this program.
6. Boss Forestry's driver will also provide a video testimonial on how they apply safe driving techniques to stay safe on the roads.

Timeframe: This activity will be completed within 12 months of acceptance of this enforceable undertaking.

Estimated Cost: \$3000.00

Output: The safety video developed will be submitted to NHVR as evidence of this deliverable.

Benefits to the broader community

41. Heavy vehicle safety barbeque (Activity 6)

Activity 6 – Heavy vehicle safety barbeque

Objective: The objective of this activity is to promote awareness of heavy vehicle safety in the industry and communicate important safety messages to the community.

Strategies: This activity will aim to promote awareness of chain of responsibility and HVNL.

Details: Boss Forestry will host a barbeque to promote heavy vehicle safety in the community. Invitations will be sent to supply chain partners, drivers, and other interested parties. The event will be advertised in the local newspaper and other industries will be encouraged to participate. Flyers and banners will be developed emphasising the important safety messages in relation to:

1. Mass management
2. Fatigue management
3. Speed management
4. Load restraint
5. Vehicle safety standards

This event will allow an opportunity for communication of heavy vehicle safety information to the broader community. It will also provide an opportunity for consultation between industries and the broader community.

Timeframe: This activity will be completed within 12 months of acceptance of this enforceable undertaking, subject to COVID-19 restrictions.

Estimated Cost: \$2500.00

Output: Photos of the event and flyers developed will be submitted to NHVR as evidence of this deliverable.

42. Development of a YouTube video to promote heavy vehicle safety (Activity 7)

Activity 7 – Development of a YouTube video to promote heavy vehicle safety

Objective: The objective of this activity is to promote awareness of heavy vehicle safety in the industry and communicate information to industries and the broader community.

Strategies: This activity will aim to promote awareness of chain of responsibility and HVNL.

Details: Boss Forestry will produce a YouTube video to promote heavy vehicle safety in the community. The video will involve keynote speakers, who will promote awareness of heavy vehicle safety by discussing:

1. Chain of responsibility and HVNL
2. Common hazards and risks in transport
3. Best practice control measures
4. Technological advancements and tools

This activity will allow an opportunity for communication of heavy vehicle safety information to the broader community.

Timeframe: This activity will be completed within 12 months of acceptance of this enforceable undertaking.

Estimated Cost: \$2500.00

Output: A copy of the video will be submitted to NHVR as evidence of this deliverable.

43. The total estimated value of this undertaking is: \$45,626.00.

PART 3 – OFFER OF UNDERTAKING

Executed as an Undertaking

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



Signature of Director



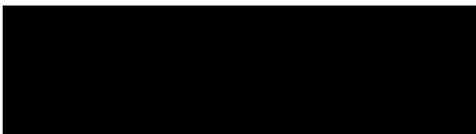
Name of Director (Print)

1/7/2021

Date

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 PETROCCITTO

Name of Chief Executive Officer (Print)

16 JULY 2021

Date