

-FOR IMMEDIATE RELEASE-

19 November 2020

HEAVY VEHICLE CHAIN OF RESPONSIBILITY MANAGEMENT PLAN

Cootamundra-Gundagai Regional Council (CGRC) urges heavy vehicle operators and contractors (over 4.5 tonne) to have in place a Heavy **Vehicle Chain of Responsibility Management Plan** as detailed on the National Heavy Vehicle Regulator website www.nhvr.gov.au

The aim of COR is to make sure everyone in the supply chain shares responsibility for ensuring breaches of the HVNL do not occur. Under COR laws if you are named as a party in the chain of responsibility and you exercise (or have the capability of exercising) control or influence over any transport task, you have a responsibility to ensure the HVNL is complied with.

On 1 October 2018, the Heavy Vehicle National Law (HVNL) was amended to provide that every party in the heavy vehicle transport supply chain has a duty to ensure the safety of their transport activities. In practical terms, this primary duty represents an obligation to eliminate or minimise potential harm or loss (risk) by doing all that is reasonably practicable to ensure safety. As a party in the supply chain, the best way to do this is to have Safety Management Systems (SMS) and controls in place, such as business practices, training, procedures and review processes that:

- identify, assess, evaluate, and control risk
- manage compliance with speed, fatigue, mass, dimension, loading and vehicle standards requirements through identified best practice
- involve regular reporting, including to executive officers
- document or record actions taken to manage safety.

The law recognises that multiple parties may be responsible for offences committed by the drivers and operators of heavy vehicles. A person may be a party in the supply chain in more than one way. For example, they may have duties as the employer, the operator and the consigner of goods.

Legal liability applies to all parties for their actions or inactions.

Who are parties in the supply chain?

The parties in the Chain of Responsibility for a heavy vehicle are:

- an employer of a driver
- a prime contractor for the driver – if the vehicle's driver is self-employed
- an operator of the vehicle
- a scheduler for the vehicle
- a loading manager for any goods in the vehicle
- a loader and/or unloader of a vehicle
- a consignor of any goods for transport by the vehicle
- a consignee of any goods in the vehicle
- a loader and/or unloader of any goods in the vehicle.

When could COR apply? Some examples include:

- when a party has control or influence over a transport activity and fails to manage, so far as reasonably practicable, the risk it creates
- when a party's business practices cause or encourage the driver of a heavy vehicle to exceed the speed limits

- when a party's business practices cause or encourage the driver of a heavy vehicle to breach mass, dimension, or loading requirements
- where instructions, actions or demands to parties in the supply chain cause or contribute to an offence under the HVNL

This includes any direction, requirement or demand that is given directly or indirectly to a driver of a heavy vehicle or a party in the chain of responsibility that has an impact on compliance, for example:

- a consignor or consignee has unrealistic contractual arrangements which causes or encourages the driver to exceed regulated driving hours or drive whilst fatigued
- a scheduler's business practices, requests or demands, cause or encourage the driver to exceed the speed limit.

Contracts that cause or encourage a driver of a heavy vehicle or a party in the chain of responsibility to break the law are illegal.

In a prosecution, the courts may consider the actions of each party in the supply chain. This includes what measures each party had in place to ensure safe practices and prevent breaches of the HVNL occurring. Prosecution will need to demonstrate to the court that a party in the chain of responsibility did not do all that was reasonably practicable to ensure the safety of the party's transport activities.

-END-

Cootamundra-Gundagai Regional Council
www.cgrc.nsw.gov.au

For further media information contact:
Maxine Imrie Media Officer 1300 459 689
Maxine.Imrie@cgrc.nsw.gov.au

