

Chain of Responsibility Policy

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AUTHORITY	General Manager
CONTACT OFFICER	Manager People and Strategy

1 PURPOSE

- 1.1 The purpose of this Policy is to provide guidance and a regulatory framework to all relevant Council employees, including contractors or people who are considered employees under Council's operation as the 'person conducting a business or undertaking' (PCBU) on their responsibilities under Heavy Vehicle National Law's (HVNL) Chain of Responsibility (CoR).
- 1.2 This Policy establishes the control mechanisms for eliminating, and where elimination is not practicable; mitigating the hazards and risks associated with heavy vehicle operation, and compliance with the HVNL CoR. This Policy is supported by Council's *Chain of Responsibility Procedures* and associated forms, templates and policies.
- 1.3 Council will not knowingly ask or expect any employee or contractor to do anything that is unlawful or that will create a dangerous or potentially dangerous situation in order to satisfy its own requirements under CoR.

2 SCOPE

- 2.1 This Policy applies to any premises, or any other place of work, where a Council Official, including contractor or subcontractor, is representing or conducting activities relating to the business of Council that fall within the scope of the HVNL. This may include, but is not limited to, roles within logistics, supply chain and support capacities, including full time, part time and casual employees as well as contractors or subcontractors (working for or on behalf of Council). Where applicable this Policy extends to suppliers and visitors.

3. BACKGROUND

3.1 Heavy Vehicle National Law (HVNL)

The HVNL came into effect 10 February 2014 and was established to provide nationally consistent laws. Legislative changes to the HVNL commenced from 1 May 2018.

The CoR laws apply across all areas in the supply chain where investigations and enforcement into CoR breaches occur. The aim is to positively influence the actions of those involved in the heavy vehicle transport industry and ensure all parties who influence on-road behaviour are held accountable for breaches of HVNL.

3.2 Chain of Responsibility (CoR)

Chain of Responsibility is a Nationally Legislated program of compliance and enforcement that aims to improve safety and reduce accidents across the road transport industry. CoR aims to ensure that any off-road party in a position to control, influence or encourage particular on-road behaviour is identified and held appropriately accountable.

Drivers and operators have traditionally been the focus of road laws. However, breaches are often caused by the actions of others. Under CoR, complying with transport law is a shared responsibility and all parties in the road transport supply chain are responsible for preventing breaches.

The CoR extends legal liability for certain road law offences to all parties who, by their actions, inactions or demands exercise control or influence over the entire transport chain. All persons involved in consigning, packing, loading, driving, operating and receiving have responsibilities under HVNL CoR.

4. DEFINITIONS

4.1 For the purposes of this Policy the following definitions, as provided by *the Heavy Vehicle National Law (NSW)* and *Heavy Vehicle (Adoption of National Law Act 2013)* apply:

Term	Definition
Act	<i>Local Government Act 1993 (NSW)</i>
Heavy Vehicle National Law (HVNL)	Refers to the provisions of both the <i>Heavy Vehicle National Law (NSW)</i> and <i>Heavy Vehicle (Adoption of National Law) Act 2013</i> .
Consign and Consignor	<p><i>A person consigns goods, and is a consignor of goods, for road transport using a heavy vehicle, if:</i></p> <ul style="list-style-type: none"> <i>i. The person has consented to being, and is, named or otherwise identified as a consignor of the goods in the transport documentation relating to the road transport of the goods; or</i> <i>ii. The person engages an operator of the vehicle, either directly or indirectly or through an agent or other intermediary, to transport the goods by road; or</i> <i>iii. If paragraphs (a) or (b) do not apply – the person has possession of, or control over, the goods immediately before the goods are transported by road.</i>
Consignee (of goods)	<ul style="list-style-type: none"> <i>i. Means a person who:</i> <ul style="list-style-type: none"> <i>a. Has consented to being, and is, named or otherwise identified as the intended consignee of the goods in the transport documentation relating to the road transport of the goods; or</i> <i>b. Actually receives the goods after completion of their road transport; but</i> <i>ii. Does not include a person who merely unloads the goods.</i>
Driver (of a vehicle or combination)	<ul style="list-style-type: none"> <i>i. Means the person driving the vehicle or combination; and</i> <i>ii. Includes:</i> <ul style="list-style-type: none"> <i>a. A person accompanying the person driving the vehicle or combination on a journey or part of a journey, who has been, is or will be sharing the task of driving the vehicle or combination during the journey or part; and</i> <i>b. A person who is driving the vehicle or combination as a driver under instruction or under an appropriate learner licence or learner permit; and</i> <i>c. Where the driver is a driver under instruction, the holder of a driver licence occupying the seat in the vehicle or combination next to the driver.</i>
Goods	<i>i. Includes –</i>

- a. *Animals (whether alive or dead); and*
- b. *A container (whether empty or not); but*
- ii. *Does not include:*
 - a. *People; or*
 - b. *Fuel, water, lubricants and readily removable equipment required for the normal use of the vehicle or combination in which they are carried; or*
 - c. *Personal items used by the driver of the vehicle or combination, or someone else necessary for the normal use of the vehicle in which they are carried.*

Heavy Vehicle

As defined by s. 6 of the HVNL, a vehicle is a heavy vehicle if:

- i. *It has a Gross Vehicle Mass (GVM) of greater than 4.5 tonnes;*
- ii. *This includes trailers with an Aggregate Trailer Mass (ATM) greater than 4.5 tonnes.*

Load (of a heavy vehicle or in a heavy vehicle)

Means:

- i. *All the goods, passengers, drivers and other persons in the vehicle; and*
- ii. *All fuel, water, lubricants and readily removable equipment carried in the vehicle and required for its normal use; and*
- iii. *Personal items used by the vehicle's driver or someone else necessary for the normal use of the vehicle; and*
- iv. *Anything that is normally removed from the vehicle when not in use.*

Load (when used as a verb) and Loader

A person loads goods in a heavy vehicle, and is a loader of goods in a heavy vehicle, if the person is a person who:

- i. *Loads the vehicle, or any container that is in or part of the vehicle, with the goods for road transport; or*
- ii. *Loads the vehicle with a freight container, whether or not it contains goods, for road transport.*

Load Manager for the purposes of Chapter 4 of the HVNL, a person is a loading manager for goods in a heavy vehicle if:

For goods in a heavy vehicle, means:

- i. *A person who manages, or is responsible for the operation of, regular loading or unloading premises for heavy vehicles where the goods are:*
 - a. *Loaded onto the heavy vehicle; or*

	<ul style="list-style-type: none"> b. <i>Unloaded from the heavy vehicle; or</i>
	<ul style="list-style-type: none"> ii. <i>A person who has been assigned by a person mentioned in paragraph (a) as responsible for supervising, managing or controlling, directly or indirectly, activities carried out by a loader or unloader of goods at regular loading or unloading premises for heavy vehicles.</i>
Operate or Operator	<p><i>A person operates a vehicle or combination, and is an operator of the vehicle or combination, if the person is responsible for controlling or directing the use of:</i></p> <ul style="list-style-type: none"> i. <i>For a vehicle (including a vehicle in a combination) – the vehicle; or</i> ii. <i>For a combination; the towing vehicle in the combination.</i>
Owner	<ul style="list-style-type: none"> i. <i>Of a vehicle means:</i> <ul style="list-style-type: none"> a. <i>Each person who is an owner, joint owner or part owner of the vehicle; or</i> b. <i>A person who has the use or control of the vehicle under a credit agreement, hiring agreement, hire-purchase agreement or leasing arrangement; or</i> ii. <i>Of a combination means:</i> <ul style="list-style-type: none"> a. <i>Each person who is an owner, joint owner or part owner of the towing vehicle in the combination; or</i> b. <i>A person who has the use or control of the towing vehicle in the combination under a credit agreement, hiring agreement, hire-purchase agreement or leasing arrangement; or</i> iii. <i>Of a sample means an owner of the sample or the thing from which it was taken.</i>
Pack and Packer	<p><i>A person packs goods, and is a packer of goods, if the person:</i></p> <ul style="list-style-type: none"> i. <i>Puts the goods in packaging, even if that packaging is already on a vehicle; or</i> ii. <i>Assembles the goods as packaged goods in an outer packaging, even if that packaging is already on a vehicle; or</i> iii. <i>Supervises an activity mentioned in paragraph (a) or (b); or</i> iv. <i>Manages or controls an activity mentioned in paragraph (a), (b) or (c).</i>
Regulated Heavy Vehicle	<p><i>A vehicle is a regulated heavy vehicle if it has a Gross Vehicle Mass (GVM) of more than 12 tonnes.</i></p>
Scheduler	<p><i>For a heavy vehicle, means a person who:</i></p>

- i. *Schedules the transport of any goods or passengers by the vehicle; or*
- ii. *Schedules the work times and rest times of the vehicle's driver.*

National Heavy Vehicle Regulator

5. RESPONSIBILITIES

- 5.1. Currently, under the HVNL, all parties who have control or influence over the transport task are deemed responsible for complying with CoR obligations.
- 5.2. All parties must take all reasonably practicable steps to ensure the safety of any transport activities that they perform, control or have influence over the conduct of and seek to prevent breaches of mass, dimension, loading, speed, fatigue, vehicle standards and mechanical safety laws. Actions, inactions or demands must not contribute to, or encourage, breaches of the HVNL.
- 5.3. A party in the CoR includes any person who undertakes roles defined within the HVNL, who can influence or control transport-related activities. The key roles, for the purposes of this Policy, as defined within the HVNL are provided in cl. 4.1.
- 5.4. Table 1 (cl. 5. 4(i)) sets out specific responsibilities for the parties, as defined in cl. 4.1, in the supply chain, but it is not an exhaustive list. Further responsibilities are provided under Table 2 (cl. 5. 4(ii)) in relation to Council roles.

i. Table 1 – Roles and Associated Legal Responsibilities

Title	Responsibilities
Operator/Manager/Scheduler	<ul style="list-style-type: none"> • Ensure rosters and schedules do not require drivers to breach driving hours or speed limits. • Assess whether a driver is fit for duty. • Record driver activities, work and rest times. • Ensure drivers do not work while impaired by fatigue or while in breach of their work or rest hours. • Maintain vehicles and ensure properly functioning speed limiters are fitted. • Ensure vehicles are not loaded to exceed mass or dimension limits and are appropriately restrained. • Ensure drivers moving freight containers have a valid container weight declaration. • Consult regularly with other parties in the supply chain to identify risks and issues that may contribute to breaches of the HVNL.
Consignor/Consignee	<ul style="list-style-type: none"> • Ensure loads do not exceed mass or dimension limits and are appropriately restrained. • Check that operators carrying freight containers have a valid container weight declaration. • Your delivery requirements must not require or encourage drivers to:

	<ul style="list-style-type: none"> - Exceed the speed limits; - Drive while impaired by fatigue; - Exceed regulated driving hours; - Fail the minimum rest requirements. <ul style="list-style-type: none"> • Consult with other parties in the chain to identify risks and issues that may contribute to breaches of the HVNL.
Loading Manager/Loader/Packer	<ul style="list-style-type: none"> • Ensure that loading a heavy vehicle will not cause or contribute to the driver driving while impaired by fatigue. • Work with other off-road parties to make reasonable arrangements to manage loading/unloading times. • Ensure vehicle loading/unloading does not cause delays and advise drivers of any delays of more than 30 minutes. • Ensure loads: <ul style="list-style-type: none"> - Do not exceed vehicle mass or dimension limits - Do not cause the vehicle to exceed mass limits - Comply with the load restraint standard - Are placed and secured in a way so they do not become unstable, move or fall off the vehicle • Ensure load documentation is accurate. • Ensure goods packed in a freight container do not cause the container's gross weight or safety approval rating to be exceeded.
Driver/Owner	<ul style="list-style-type: none"> • Comply with your relevant fatigue management work and rest requirements. • Keep an accurate work diary and records required by law. • Respond to changes in circumstances (such as delays) and report these to your base. • Ensure your vehicle does not exceed mass or dimension limits. • Ensure your load is properly restrained. • Check and report on all maintenance issues. • Obey all speed limits and road rules. • Subcontractors should also follow the lawful requirements of their prime contractors and be able to demonstrate compliance. • Identify and report hazards and risks associated with the transport task.

ii. Table 2 – Definitions of Roles and Associated Legal Responsibilities

Title	Responsibilities
General Manager and Director Engineering	<ul style="list-style-type: none"> • Has overall responsibility for ensuring the CoR management system is appropriately resourced and managed. • Receives regular updates on the performance of CoR management across worksites.
Manager Works/Manager Livestock	<ul style="list-style-type: none"> • Ensure supply chain risks and compliance and applicable CoR requirements are identified, assessed and managed and appropriate level of resources applies.

Exchange/Manager Water	<ul style="list-style-type: none"> • Identify CoR roles within the business unit and seek assurance that all reasonable steps are taken to avoid a breach of any of the CoR provisions. • Ensuring team members are appropriately trained and all processes are being followed. • Receives and creates regular updates on the performance of the CoR management plan.
Senior Project Manager or Consultant/Contractor in Charge	<ul style="list-style-type: none"> • Identify, assess and manage risks associated with supply chain activities and heavy vehicle operations at a project level. • Ensure project staff understand their CoR responsibilities • Ensure delivery requirements do not require or encourage drivers to: <ul style="list-style-type: none"> - Exceed the speed limits; - Exceed regulated driving hours; - Fail to meet the minimum rest requirements; - Drive while impaired by fatigue. • Develop a project work program that does not place pressure on the supply chain that has the potential to contribute to a heavy vehicle noncompliance and unsafe act. • Take all reasonable steps to ensure drivers do not work while impaired by fatigue or drive in breach of their work or rest requirements. • Select vehicles that are fit for purpose and appropriate for the goods to be transported. • Seeks assurance in the tender stage that contractors and suppliers have CoR compliant systems. • Ensure this plan is implemented including monitoring, verifying and review. • Immediately report CoR breaches to senior management.
Works Supervisor (Person in Charge of operations on the Worksite or Facility)	<ul style="list-style-type: none"> • Ensure the transporting goods and materials does not require or encourage drivers to: <ul style="list-style-type: none"> - Exceed the speed limits; - Exceed regulated driving hours; - Fail to meet the minimum rest requirements; - Drive while impaired by fatigue. • Develop rosters and work schedules that do not require drivers to exceed driving hours regulations or speeds limits. • Ensure accurate records are kept of drivers' activities, including work and rest times. • Ensure drivers are fit for duty and do not work while impaired by fatigue or drive in breach of their work or rest options. • Ensure vehicles are roadworthy and well maintained, and if mandatory speed limiters are fitted they are functioning properly. • Ensure vehicles are not loaded in a way that exceeds mass or dimension limits.

- Ensure drivers moving freight containers have a valid Container Weight Declaration.
- Ensure loads are appropriately restrained with appropriate restrained equipment (see the Load Restraint Guide for more information).
- Implement project specific controls as identified in the risk assessment.
- Report all heavy vehicle near misses, occurrences and breaches to the Project Manager and WHS reporting line.

WHS Team

- Ensure compliance with CoR Policy and procedures via formal audits.
- Conduct prompt investigations after CoR related breaches or incidents.
- Monitor all data for incident reporting trends and report to the General Manager and MANEX on a quarterly basis.

6. POLICY STATEMENT

6.1 Chain of Responsibility is relevant for all areas of Council, particularly in the areas that deal with heavy vehicles (such as gravel trucks, low loaders, intermediate plant trailers, and Forbes Central West Livestock Exchange). The receipt of goods from external agencies and companies (such as gravel, livestock, concrete, water main piping and plant deliveries) all impact Council's CoR responsibilities.

6.2 The core elements of the CoR are mass and dimension, load restraint, driver fatigue, speed and maintenance. All employees, contractors and related parties are required to adhere to cl 6.2 (i) – (v) in accordance with responsibilities defined within s. 5. Implications for breach of this Policy will be handled in accordance with s. 7.

i. Mass and Dimension

Ensuring trucks leave sites within the mass carrying constraints and that the mass is distributed across the truck axles, and ensuring dimension limits are adhered to.

ii. Load Restraint

Ensuring that when trucks are loaded that the load is adequately secured to the vehicle.

iii. Driver Fatigue

Ensuring that drivers are well rested and are given adequate time to take their scheduled rest breaks, taking into consideration the amount of hours worked.

iv. Speed

Ensuring that the driver's routes are realistic and safe and that demands are not imposed on a driver that may result in a driver putting themselves or others at risk. Schedules need to take into account the distance that needs to be covered, traffic conditions and delays at receiving sites.

v. Maintenance

Ensuring that trucks are free from defects, mechanically safe and in proper working order before a vehicle enters the road network.

6.3 Vehicles

Further to the definition of 'Heavy Vehicle' or 'Regulated Heavy Vehicle' as provided in cl. 4.1, it is a requirement of Council that any heavy vehicle consigned to do work for Council has the following information verified prior to commencement and is maintained for the duration of that work:

- i. Vehicle registration;
- ii. Appropriate insurances;
- iii. Maintenance is up to date;
- iv. Fit for purpose;
- v. Appropriate load restraint for task; and
- vi. Speed limiter function (Regulated Heavy Vehicle).

6.4 Drivers

All contractors and subcontractors who undertake work for Council must have the following information verified prior to commencement which must be maintained for the duration of that work:

- i. Appropriate heavy vehicle drivers licence;
- ii. Medically fit to drive;
- iii. Required insurances;
- iv. Fully inducted for both WHS and CoR; and
- v. Trained in CoR requirements or must be inducted to CoR prior to commencing.

If at any time a driver, be it employee, contractor or subcontractor, does not meet the above requirements they are to inform Council immediately. Failure to comply with this component of the Policy may result in termination of employment or contract and removal of site.

6.5 Scheduling

Schedulers must take all reasonably practicable steps to ensure the schedule will not cause the vehicle to breach mass limits or cause the driver to exceed the legal speed limit. Reasonable steps include but are not limited to:

- i. Consulting the driver or operator prior to finalising the schedule;
- ii. Taking account of the average speed that can be travelled lawfully on scheduled routes;
- iii. Allowing for traffic conditions or other delays in schedules; and

- iv. Contingency planning concerning schedules.

6.6 Mass Limits

All Council operators within the chain of supply must ensure that any vehicle that is loaded with a Council product or asset is done so in line with the Mass Limits of the vehicle and technical specifications under legislation (such as load on axles) as per NHVR guidelines (<https://www.nhvr.gov.au/road-access/mass-dimension-and-loading/general-mass-and-dimension-limits>).

Where Council consigned or loads a load for road transport, Council will provide the driver or nominated representative with all relevant mass information related to the load prior to loading, and in the case of pre-loaded vehicles, prior to departure. The driver or nominated representative has the authority to request adjustments to the load if the driver is concerned with the weight of the load.

The gross mass of the load is required to be placed on the vehicle in line with legal axel/mass load limits.

As all vehicles are different and drivers know their vehicles best, the driver is responsible to direct the loader to position the load according to the vehicle axel/mass load limits.

It is also important that mass and dimension limits are adhered to throughout the delivery cycle, i.e. as freight is removed or added to the vehicle in the field.

6.7 Load Restraint

The safe loading of heavy vehicles is vitally important in preventing injury to people and damage to property. There are also economic benefits to Council if the load arrives intact and without damage.

Every load that leaves a Council site must be restrained in line with the *National Transport Commission's Load Restraint Guide* in force at the time.

The load must be restrained to withstand forces of at least:

- i. 80% of its weight in the forward direction;
- ii. 50% of its weight sideways and rearwards; and
- iii. 20% of its weight vertically.

Council's position on the type of load restraint for each load channel may differ, however the following universal standards are preferred:

- i. Certified load restraint curtains;
- ii. Certified headboards and sides on rigid vehicles;
- iii. Plastic angles not metal angles;
- iv. Minimum of 2500kg rated web strapping, never ropes; and

- v. On loads >4 tonne, chains and ratchet dogs must be used, and a minimum of 4 chains is required. (*National Transport Commission's Load Restraint Guide* in force at the time).

6.8 Fatigue Management

Fatigue can affect a person's health, reduce performance and productivity, and increase the chance of a workplace accident or vehicle accident.

Council and all parties in the supply chain must take reasonable steps to ensure that any risks associated with fatigue are identified, minimised, controlled or eliminated.

Examples include but are not limited to:

- i. Drivers properly managing their work and rest, and not driving if fatigued;
- ii. Ensuring trip schedules have sufficient flexibility and are reasonable;
- iii. Maintaining effective loading and queuing practices; and
- iv. Ensuring that commercial arrangements do not incentivise the driver to break the law (e.g. driving excessive hours or speeding to meet deadlines).

6.9 Driving Hours

The majority of heavy vehicle tasking within Local Government is within the Local Government Area boundaries, where work diaries are rarely required to be used. Drivers must still abide by any applicable driving work and hour requirements.

6.10 Speed Management

Council will not pressure, direct or encourage at any time any driver to speed for any reason. Council insists on safe work behaviour and speeding will not be tolerated.

Council and its transport providers will ensure a robust approach to speed management that can incorporate but is not limited to the following controls:

- i. Regular consultation with drivers;
- ii. Reviewing of driving, work and trip records;
- iii. A program to report and monitor incidents of speeding and related risks and hazards;
- iv. Training and information for drivers, staff and parties in the chain of responsibility;
- v. Regular maintenance of vehicle components that relate to complying with speed limits; and
- vi. Remuneration model that does not incentivise or penalise drivers for early or late deliveries.

6.11 Maintenance

Council requires all vehicles to be roadworthy and undergo regular scheduled maintenance. Vehicles must be fit for purpose, free from defects, mechanically safe and in proper working order.

7.1 ENFORCEMENT AND BREACH MANAGEMENT

- 7.1.1 This Policy sets standards of behaviour expected from individuals who perform work for Council including employees, contractors and sub-contractors across all facilities including the Forbes Central West Livestock Exchange.
- 7.1.2 This Policy will be endorsed via formal and informal audits of all areas of operation. Council reserves the right to investigate and assess any heavy vehicle in line with legislative requirements and issue breach notices when identified.
- 7.1.3 Breaches of this Policy will result in disciplinary action up to and including termination of employment. For contractors it may lead to the immediate termination or stand-down of a contract. It is expected that Council's suppliers will enforce a similar set of standards with their employees.

Revision History

Version	Adoption Date	Authorised by	Approved by	Revision Date
V1	19/09/2019	General Manager	Council	19/09/2019

Change History

Version	Change Details
V1	Initial Policy

Related Documents

Title
<i>Chain of Responsibility Procedure</i>
<i>Work Health and Safety Policy</i>
<i>Alcohol and Other Drugs Policy</i>
<i>Code of Conduct Policy</i>
<i>Multiple and Secondary Employment Policy</i>
<i>Training and Development Policy</i>
<i>RMS Heavy Vehicle Drivers Handbook</i>
<i>Heavy Vehicle National Law (NSW)</i>
<i>Heavy Vehicle (Adoption of National Law) Act 2013</i>
<u>https://www.nhvr.gov.au/road-access/mass-dimension-and-loading/general-mass-and-dimension-limits</u>