

Application for an enforceable undertaking

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by
<i>Name of the person or persons who will be signing this undertaking in section 4:</i> Henare Clarke
<i>On behalf of:</i> Higgins Contractors Limited
<i>Name of the entity giving this undertaking (if an individual or sole trader, leave blank – complete in all other cases):</i> Higgins Contractors Limited

This enforceable undertaking is given on the day and date that it is accepted and signed by WorkSafe. 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.

Do not refer to the victim by name in this document. Please refer to the victim/worker/employee/volunteer/or other term as appropriate.

WorkSafe respects your privacy and is committed to protecting personal information. The information provided in this document is for the purpose of an undertaking given to WorkSafe under Part 4 of the Health and Safety at Work Act 2015. This information will be managed within the requirements of both the Privacy Act 1993 and the Official Information Act 1982.

There is an expectation that WorkSafe will generally publish the undertaking in full on its website.

TERM	DEFINITION
Contravention	An action which offends against the <i>Health and Safety at Work Act 2015</i> and/or any Regulations made under it. It includes both health and safety contraventions. A contravention also includes an alleged contravention
HSMS	A Health and Safety Management System
Person	An individual who or a legal entity which has a duty under the <i>Health and Safety at Work Act 2015</i> and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, trustees of trusts, and crown organisations.
Health and Safety legislation	<i>Health and Safety at Work Act 2015</i> and associated regulations.
Enforceable undertaking	An enforcement pathway that allows a duty holder to voluntarily enter into a binding agreement with WorkSafe. The agreement outlines actions the duty holder will undertake to address the contravention. It is expected to deliver activities which benefit workers, the wider industry or sector and/or the

community as well as acceptable amends to any victim(s).

1.1 Details of the person/persons/entity giving the undertaking

Name of person(s) making this undertaking: (in all cases complete with the name(s) of those who are signing this undertaking under Section 4)

Henare Clarke

Name of entity: (if applicable, leave blank if an individual)

Higgins Contractors Limited ('Higgins')

Type of legal entity: (complete in all cases, for example individual, sole trader, partnership, trust, company, etc)

Registered company

Nominated contact person: (the same person listed above/one of those listed above)

Henare Clarke

Physical address:

Higgins Contractors Limited
Level 2, Higgins House
5 Cryers Road
East Tamaki
Auckland
New Zealand

Postal address: (if different from physical address)

Work phone: +64 9 273 8420

Mobile phone: [REDACTED]

Email: H.Clarke@higgins.co.nz

Industry: Construction and infrastructure

Workers (enter numbers):

Full-time: Approximately 1850 employees in New Zealand and Fiji (not all employed by Higgins Contractors Ltd).

Description of the products and services provided by the business or undertaking:

Higgins is a civil construction company that provides a wide range of services from designing and building major infrastructure to road maintenance, bitumen product manufacture and supply.

1.2 Detail of the contravention

WorkSafe New Zealand ('**WorkSafe**') alleges that Higgins, as a Person Conducting a Business or Undertaking ('**PCBU**'), failed to ensure, so far as reasonably practicable, the health and safety of workers who worked for Higgins, including the Injured Person, while the workers were at work for Higgins, namely while operating a Bitelli 740 paver, and that this failure exposed workers, including the Injured Person, to a serious injury arising from exposure to hazards associated with an unsecured roof on the paver.

WorkSafe alleges that there were three reasonably practicable steps that Higgins failed to take to ensure the health and safety of its workers:

- Engaged a competent person to undertake a systematic risk assessment of the Bitelli 740 paver after the modification to the roof;
- Ensured that workers were trained appropriately and provided with the appropriate information to safely operate the Bitelli 740 paver; and
- Developed, implemented and monitored a safe system of work for the Bitelli 740 paver including:
 - Site specific induction for all workers; and
 - Pre-start checks specific to the paver.

1.3 Detail the events surrounding the contravention

At the time of the incident Higgins was involved in an asphalt laying job at a retirement village on Grenada Street, Papamoa. Higgins's Paving Manager had requested that the Waikato based crew assist the Tauranga team. The Injured Person was employed as a driver/machine operator based at the Waikato Branch.

As part of this work, a 2005 Mobile Machine Bitelli 740 paver, licence plate FGN417 ('**Paver**') was required. This machine was imported from the USA and registered in New Zealand on 23 February 2010. Higgins has owned the machine since then. The Paver is used for laying hot bituminous mixes and cold cement mixes. The Paver had been modified by the Tauranga Branch of Higgins so that the collapsible roof was spring-loaded rather than being supported by gas struts. This was an action taken to mitigate transport risks.

On the day of the incident, the Waikato crew arrived at approximately 7:00am with a van, and a truck with a 4-axle trailer, used to cart the Paver and a 4 tonne roller. The Waikato crew attended a toolbox meeting, but no specific site induction was completed for any of the workers. The Injured Person was asked to put the Paver on the transporter to take it to the Grenada Street retirement village. He was not told about the modified spring-loaded roof system but noticed it when he began the pre-start check before loading it onto the trailer, as he could not see the gas struts that he was used to seeing on other Bitelli 740 pavers.

The Injured Person noticed some locking pins and made the assumption to put the one he saw inside the hole of the roof's arms. He did not realise that the modification had a total of four locking pins which locks the spring-loaded roof system in place and stops it from falling down.

The Injured Person loaded the Paver onto the transporter, took the single pin out and collapsed the

roof. At approximately 8:00am, at the Grenada Street retirement village worksite, another toolbox meeting took place where the Injured Person was instructed to bring the Paver off the transporter and was again, not instructed or informed on how to operate the modified spring-loaded roof.

The Injured Person unlocked the chains securing the Paver to the transporter. He entered the rear of the Paver and lifted the roof up as he stepped up on the Paver. The roof can be put into the lifted position without any pins being inserted. The Injured Person set the driving console to the left side and sat down in the left-hand side seat.

The Injured Person started the Paver. While in idle, the vibration was present but low. The Injured Person noticed he had not put the locking pin into the roof's arm. As he reached forward to put the pin in, the entire roof collapsed, striking his head on the left side, with direct impact on his left eye. The modified spring-loaded roof weighs approximately 30-40kgs.

First aid was provided at the scene and the Injured Person was accompanied to the hospital by a Higgins team member. Other members of the Higgins senior leadership/management team met them at the Hospital to provide immediate support for the Injured Person and his whanau. This included covering the travel and accommodation costs of the Injured Person's whanau until the Injured Person was able to be transferred closer to his home in Hamilton.

1.4 Detail any enforcement notices issued that relate to the contravention as detailed in term 1.2

<i>Date</i>	<i>Notice type</i>	<i>Notice number</i>	<i>Contravention or prohibited activity</i>	<i>Action taken in response to notice</i>
None				

1.5 Detail the rectifications to the workplace or work practices made as a result of the contravention (1.2), events (1.3) and the enforcement notices issued (1.4)

Changes to work processes and practices

- Interim administrative control (signage) was promptly put in place to assist the operator to remember the locking pins for the canopy. Shortly after, in November 2018, the canopy was permanently removed from the Paver.
- While the interim administrative control was in place, the paving crew who use the Paver involved in the incident:
 - underwent a training session in the use of the "D-Locks" to secure the canopy;
 - were required to carry out a secondary confirmation that the "D-Lock" pins had been correctly installed before the Paver was used; and
 - were consulted and supported the removal of the canopy when it was established that elimination of the risk was not going to create any consequential risk to the workers.
- Higgins also carried out a review of all paving plant following the incident. The Paver involved in the incident was the only paver that had been modified outside of the original manufacturer's design, or that used the "D-Lock" pin system. No other pavers in the business had been modified in the same way. As noted above, the canopy was permanently removed in November 2018 eliminating the risk.
- A review of the existing Higgins Management of Change Process was undertaken. This process was revised to include plant modification and now requires a process for

management of change to be approved and signed off before any plant modifications occur. The process is specified in the Higgins OSP 06 – Equipment Maintenance and Safety document and, in summary, requires that:

- Changes to plant machinery or procedures will be reviewed both prior to, and after, the change to evaluate what effect the change will have on safety.
 - The review will include specific processes around identification, analysis and communication of risks and controls which will need approval through the Higgins Group Office.
 - The review system complies with the Fletcher Building EHS Change Management standard and guide where applicable.
 - Where an alteration to the plant is planned the drawings and plans will be submitted to the National Fleet Manager for review prior to initiating the legal assessment, risk assessment and design activities for the changes.
- Higgins’s Management of Change Process now generates a series of records with respect to plant modification as follows:

Record Name	Process	Recommended Form/s
Daily Equipment Inspection	Pre-start Checks	Time Sheets
Equipment Maintenance Record	Equipment Maintenance	Site specific data capture
Calibration Register	Calibration	Site Calibration register
Calibration Status	Calibration	Labels on the equipment
Calibration certificates	Calibration	Certifier supplied
Electrical equipment tags	Equipment certification	Certifier supplied
Lifting device tags & labels	Equipment certification	Certifier supplied
Certification Certificates	Equipment certification	Certifier supplied
Plant alteration log	Installation and alteration of plant and equipment	These will be designed for specific to the design change
Plant Alteration Checklist	Installation and alteration of plant and equipment	Plant alteration Checklist

Further information regarding these documents/records can be provided to WorkSafe New Zealand on request.

- Higgins’s GM issued an instruction to all Branch and National Managers requiring any proposed plant or equipment changes to be notified to Higgins Group HSE Manager in order that approved Management of Change processes are followed before any plant modifications occur.

Investment in additional health and safety resource

- Since the incident, Higgins has established additional resource within the National

Contracting Support Team with specific focus on training the Higgins paver crews nationwide in a bid to improve competency for all Higgins workers using pavers. The direct annual cost of this role is currently \$150,000 (base remuneration, vehicle and travel costs) and is a permanent role in the Higgins team.

Communication to workers

- A safety alert was prepared after the incident in March 2018. The safety alert provided details of the incident and a list of immediate actions that should be taken to help prevent similar incidents occurring.
- The safety alert was communicated with all workers via a toolbox talk, and the safety alert was placed on Safety Notice boards throughout Higgins.
- A national request was issued for all paving crews to re-enforce use of safety systems at all times with fold down paver canopies.

Communication to industry

- The incident has been communicated at the industry safety group meeting held by NZTA, the Zero Harm forum. Additional information was provided on request to individual contractor groups, including examples of corrective actions taken so that learnings could be implemented.

Note that Higgins safety alerts have a wide reach – they are distributed throughout the Fletcher Building Group, which includes alliance partners/projects, and are available for distribution externally via numerous avenues (as mentioned above) including sharing with clients, subcontractors and industry groups.

1.6 Total amount of money spent on rectifications

The estimated total cost of rectifications undertaken by Higgins following the incident (i.e. those costs capable of quantification) is \$152,550.

Rectification	Cost
Removal of canopy from the Bitelli 740 involved in the incident.	\$300
Engagement of an engineer to complete a report on the canopy modifications.	\$450
Inspection of all 41 pavers owned by Higgins.	\$1,500
Removal of canopy from a Bitelli 730 identified in Auckland following inspection of pavers owned by Higgins.	\$300
Appointment of additional resource for the National Contracting Support Team	\$150,000
Total	\$152,550

As noted above, the additional resource for the National Contracting Support Team will be an ongoing cost. Significant internal resources have also been diverted to the steps described in section 1.5 above. These resources are difficult to quantify and are not fully accounted for in the totals above.

1.7 Detail the injury sustained or illness suffered by victim(s) or other(s) as a consequence of the contravention or, (as applicable) the potential for fatal injury or future fatal illness

Tragically, the Injured Person lost his eye as a result of the incident and has been fitted with a prosthetic.

1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (the total monetary amount here is also to be included in the table at 3.12.3)

Describe the victim(s) relationship to you/the entity in question: (e.g. employee(s) / shareholder / director / family member / contractor, etc. If the relationship has more than one dimension, for example a family member who is also an employee and a director and/or shareholder of the business, or an employee who is a shareholder (etc.) – then please describe this)

The Injured Person is a full-time employee of Higgins. He is employed as a Driver/Machine Operator based at the Waikato Branch. The Injured Person has since returned to work and is now managing a Higgins paving crew.

Detail offer of amends or payments:

Higgins has formally apologised to the Injured Person for the harm caused to him and expressed the company's sincere regret that the accident occurred.

Higgins has also engaged with the Injured Person around proposed training opportunities that interest the Injured Person. The types of courses proposed have been targeted at leadership skills, providing both personal and professional development in this area. The Injured Person is going to attend a Maori leadership course, Whakatapu, which promotes leadership diversity within the Fletcher Building Group.

Higgins has been committed to ensuring the Injured Person has been supported from the time the incident occurred, through the duration of his rehabilitation, and in his ongoing career with Higgins. The support provided by Higgins to date has included:

Item	Cost
Provision of wages for the first week the Injured Person did not earn while awaiting payment by ACC.	
Topping up of wages to 100% on top of the 80% payment that ACC provided to the Injured Person following the workplace injury sustained (first 8 weeks).	
Topping up of wages during the Injured Person's rehabilitation and while alternate duties were undertaken in accordance with medical certificate requirements.	
Payment for initial ambulance services and for taxis required to transport the Injured Person to appointments and to work during rehabilitation.	
Payment for GP visits, and medical assessments such as x-rays, clinical services and chiropractic services as required.	
Payment for a prosthetic eye as selected by the Injured Person, followed by the provision of eye glasses as required by the Injured Person in August 2019. The prosthetic eye and eye glasses are included in the total cost.	

Food vouchers were provided to support the Injured Person's whanau following the incident.	
Travel and accommodation costs of the Injured Person's whanau until the Injured Person was able to be transferred closer to his home in Hamilton.	
Payment for vocational rehabilitation courses (Levels 1 – 3) to support the Injured Person through preparation for his return to work.	
Providing all necessary assistance for the Injured Person to attend Whakatapu, a 6 month Maori Leadership Programme, which commences in late 2019. This support includes the necessary time away from work, as well as all financial assistance including transport costs, accommodation and meal vouchers for the Injured Person during his attendance at the program.	
Total cost of assistance	\$46,724.31

In addition to the above, Higgins has committed to provide the Injured Person a further \$67,400 (Plus GST, if any) in voluntary reparation, made up of:

- [REDACTED] in recognition of the lost earning potential during the period of absence from full duties, from 28 February 2018 until 2 July 2018. This figure was calculated based on the total overtime hours of the Injured Person's paving crew while he was off work; and
- \$60,000 in recognition of the physical and emotional consequences of the incident.

1.9 Detail any consultation with the victim(s) as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution

Higgins has consulted with the Injured Person to discuss the proposed enforceable undertaking and his level of involvement in the process. He confirmed his support for the enforceable undertaking, and that it would be an acceptable alternative to prosecution, at a meeting on 13 August 2019.

The Injured Person has also expressed a willingness to be involved in some of the commitments/initiatives that would be carried out (for example, he wishes to be involved with the proposed video as noted below).

Higgins has taken steps to ensure that lines of communication with the Injured Person have remained open to encourage his engagement and input where possible. There have been, for example, ongoing discussions regarding his level of involvement, the involvement of his whanau, and opportunities for the Injured Person to provide feedback and participate in developing the initiatives proposed in the enforceable undertaking.

This has included consultation meetings with the Injured Person and his support person(s) on 20 June, 15 July, 20 July, 5 August and 13 July 2019, as well as phone calls on 26 June and 5 July 2019, regarding details of the proposed enforceable undertaking and requesting his feedback and input. Higgins will encourage members of the Health and Safety Committee (including the Injured Person), to be present during internal enforceable undertaking presentations and discussions (at their discretion) to respond to any questions/feedback from other workers.

Most recently:

- On 29 July 2019, the EU Project Manager presented an update on the progress of the enforceable undertaking to the regional leadership team and the Higgins support person for the Injured Person, so the Injured Person could be kept up to date on progress and key areas of focus.
- On 13 August 2019, a meeting was held between the Injured Person, his support person, and Higgins's General Manager to review the final proposal based on the Injured Person's feedback. As above, he confirmed his support for the enforceable undertaking at this meeting and that it would be an acceptable alternative to prosecution.

In addition to his support for the enforceable undertaking, the Injured Person has indicated a willingness to be involved in aspects of its implementation. In that regard:

- As part of the undertaking, Higgins intends to produce a video that introduces workers to the enforceable undertaking so that they are aware of the undertakings that Higgins has committed to. The Injured Person has been offered the opportunity to share his story on the video and has expressed a desire to do so.
- The Injured Person will also be provided with the first opportunity to sample/trial Higgins's site specific induction and pre-start forms as these are built into a tough pad for field testing, prior to finalised development.

Subject to his views about the level of continuing involvement in this process, Higgins intends to ensure that lines of communication with the Injured Person remain open, and encourage his engagement and input where possible, as the proposed initiatives are put into place.

1.10 Detail any consultation with unions/sector/industry as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution

A worker representing the AWUNZ (Amalgamated Workers Union New Zealand) attended a meeting 20 June 2019 with the Injured Person and was engaged in the consultation with the Injured Person while the framework of the enforceable undertaking was discussed and the process was being explained. The union representation was requested by the Injured Person, and the representative was present primarily in a support capacity, but did agree that the enforceable undertaking is an acceptable alternative to a prosecution.

Higgins has also met with CHASNZ (Construction Health and Safety New Zealand) to advise them of the proposed enforceable undertaking and to seek their advice on an industry initiative to add value for all civil contractors carrying out paving works. Two proposals were put forward by CHASNZ which were considered by Higgins as part of this enforceable undertaking. CHASNZ proposed:

- A donation to its charitable trust to support their ongoing work in the civil construction industry, with a focus on a number of initiatives which are struggling due to lack of ongoing funding. CHASNZ provided assurances that the donation would be put toward a project relevant to civil construction operations.
- Higgins could make a charitable donation to CHASNZ of \$30k. This donation would contribute towards CHASNZ developing a competency framework, test, and equipment check for Asphalt Pavers as part of the ConstructSafe Plant Operator competency scheme. This is the preferred option for Higgins, with the inclusion of the provision of Higgins workers for a group workshop to provide industry knowledge to CHASNZ toward the building of the module. The workshop will be facilitated by CHASNZ, and will be required to occur within 6 months of the agreement of the undertaking. Higgins will host the workshop.

CHASNZ supports the enforceable undertaking and the contribution Higgins can make to the betterment of the industry standards.

Higgins has contacted Fulton Hogan (HS Manager) to identify and discuss their approach to Paver Plant prestart information, and to establish their interest in information from risk reviews based on human factors which was confirmed as an alternative approach. Fulton Hogan also confirmed they will be interested in the results being shared across the industry.

CCNZ (Civil Construction New Zealand) has been contacted in connection with the enforceable undertaking proposal. CCNZ considers that the activities outlined in this enforceable undertaking will be of value to the industry and therefore supports the enforceable undertaking as an alternative to prosecution.

1.11 Detail the support provided or proposed by the person to the victim(s), other(s)

Date	Description of support	Comments
27 February 2018	Provision of wages for the first week the Injured Person did not earn while awaiting payment by ACC.	[REDACTED]
27 February 2018	<p>The Injured Person was accompanied to the hospital by a Higgins team member. Other members of the senior team met at the Hospital to provide immediate support for the Injured Person and the medical team.</p> <p>Following the incident, Higgins assisted members of the Injured Person's Whanau to travel to and stay near-by in Tauranga, until the Injured Person was able to be transferred closer to his home in Hamilton.</p>	[REDACTED]
5 March 2018	Payment of food vouchers (Countdown supermarket) to assist feeding the Whanau who came to provide support to the Injured Person following the incident.	[REDACTED]
1 – 5 March 2018	Higgins team members from the Tauranga and Hamilton branches visited the Injured Person when it was appropriate to do so, and ensured the Injured Person and his Whanau were being supported and understood what was occurring.	
During March and April 2018	When the Injured Person was discharged, Higgins scheduled weekly visits to his home to keep up to date with his progress, provide support for medical needs including transport and fees as required, and kept him up to date with goings on with his team and the crews in the Hamilton Branch.	
March – April 2018	The Injured Person was offered, and accepted the opportunity to take advantage of EAP (employee assistance programmes)	

	<p>Services.</p> <p>While on alternative duties during rehabilitation the Injured Person was 'buddied' with one of the Health and Safety Coordinators for the Waikato Branch, and was provided with a variety of opportunities to assist with Health and Safety tasks for the branch, including site visits.</p>	
27 February 2018 and other dates during recovery	Payment for ambulance services and for taxi requirements during treatment and rehabilitation, as required.	
27 February – 15 April 2018	Top up of wages to 100% on top of the 80% that ACC provided to the Injured Person following the workplace injured sustained (first 8 weeks).	
6 March – 5 June 2018	GP visits, medical assessments and chiropractic sessions.	
9 April, 23 May and 4 July 2018	Vocational rehabilitation courses (Levels 1 – 3) to support Injured Person through preparation for return to work.	
15 April - 2 July 2018	Top up of wages during rehabilitation and while alternate duties were undertaken in accordance with medical certificate requirements.	
May 2018	During rehabilitation to work, the Injured Person was nominated and elected to chair the Health and Safety Committee by his fellow Health and Safety Representatives.	
17 June 2018	Payment for a prosthetic eye as selected by Injured Person	
August or Sept 2019	Payment to Injured Person in recognition of lost time opportunity during the period he was working only standard shift hours during rehabilitation.	
10 Sept 2019	Eye glasses requested by the Injured Person which Higgins has agreed to fund.	
During FY20	Provide all financial assistance including course fees, transport costs, accommodation and meal vouchers to the worker for attendance at Whakatapu, Fletcher Building's Maori Leadership Programme.	
November 2019	Financial payment to the Injured Person to provide support for physical loss and	

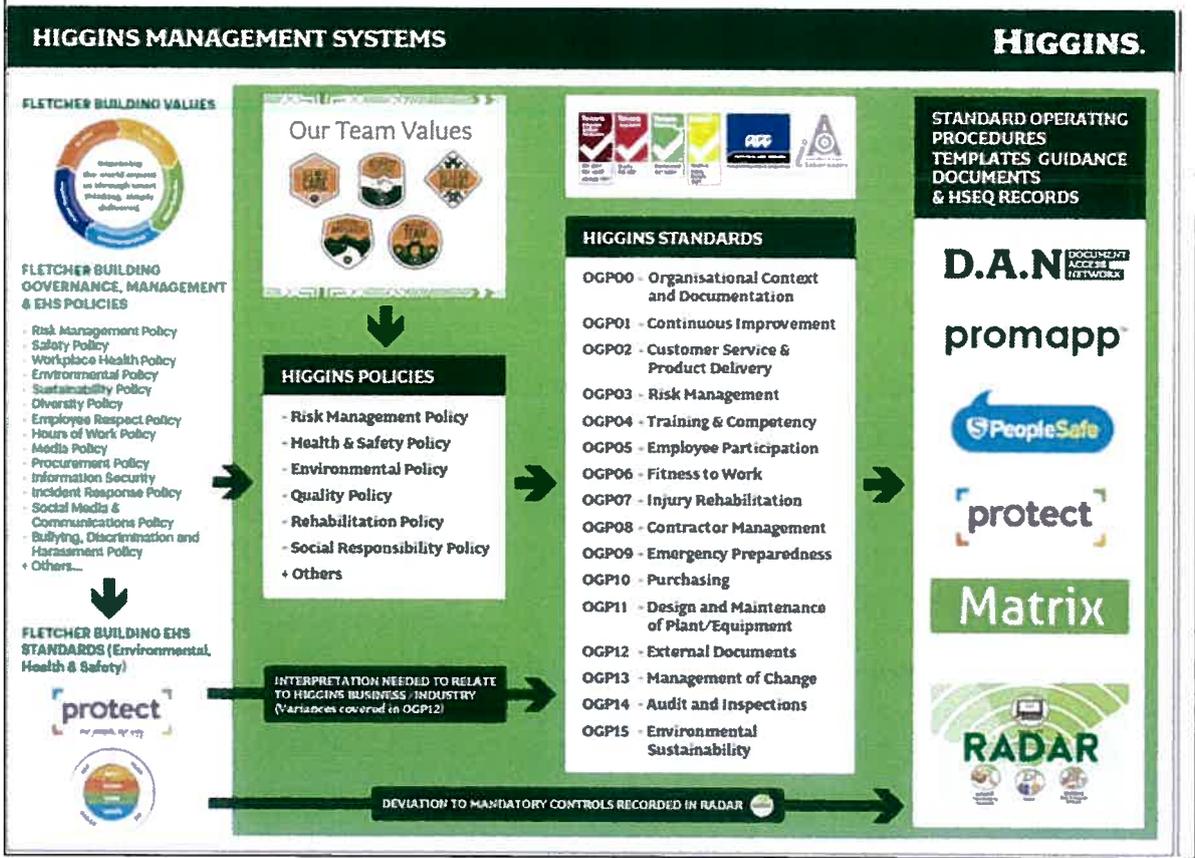
	emotional harm caused by the life changing injury suffered by the worker.	
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1.12 Detail any current HSMS implemented and maintained by the person

Describe how health and safety risks are managed, including types of procedures or policies or standards:

Higgins operates within the Fletcher Building group of companies. This relationship provides an amount of direction, system support and leadership through the wider company structure. Higgins maintains its own management systems and certification to international standards in quality, environmental and health and safety ISO 45001 which was achieved in May 2019.

The diagram below illustrates Higgins’s Management System, including its tailored set of policies, standards and guidance templates relevant to the Higgins business.



1.13 Detail the level of auditing undertaken on the HSMS, including compliance audits and audit frequency

Higgins is audited annually by Telarc with respect of the implementation of the integrated management system related to health, safety, environmental and quality. These cover the standards ISO 9001, ISO 14001, AS/NZS 4801 and ISO 45001.

Fletcher Building have been conducting various audits including health, safety, environmental and general emergency and risk preparedness since 2016. These review Higgins operations against

expectations of the Fletcher Building management standards and policies.

Internally, Higgins conducts Annual Audits of each Branch operation from the Group Office in comparison to the Higgins Management Systems. Each Branch is expected to conduct Quarterly Audits based on criteria set by the Group Office with outcomes reviewed by the Group Office. Monthly inspections are conducted of projects and yards, with Leader Walks at frequencies set each year based on KPI targets set for the year by the business.

Improvements arising out of audits are discussed at a local level with the respective site and also summarised to the Senior Leadership Team. Lessons or improvements that are relevant across multiple sites or Branches are worked through across the entire Higgins Organisation.

1.14 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking

As discussed in section 1.9 and 1.10 above, Higgins has consulted with the Injured Person and other relevant industry parties on this enforceable undertaking and the various actions proposed to be undertaken by Higgins.

In addition, Higgins has conducted worker engagement activities during the development of the enforceable undertaking, including:

- Higgins senior leaders consulted with front line leaders to establish ideas that are best suited to the needs of the workers and their work environments.
- Working groups will be established for consultation during the prototype testing of electronic formatted forms and other technology innovation required to achieve the parameters of the undertaking.
- Higgins's paving crew team members from different branches gathered for a workshop/boot camp in Feilding, during which Higgins presented the proposals for the undertaking to stimulate discussion by the workers about the proposals. Discussions addressed training and safe systems of work including site specific inductions and pre-start checks. As part of this consultation process, the workers were encouraged to provide feedback on the undertaking proposals. This included drawings, lists and discussions in smaller groups based on the proposal, as well as what they had seen or heard in the wider industry.
- Schedules will be established for attendance at Health and Safety Committee meetings to discuss the undertakings, establish change leaders among the workers and to ensure there are clear lines of feedback as the projects progress.
- As all branches carrying out paving operations will be involved in the implementation of the undertakings, all regional offices will be involved during the trial phases while the tools are prepared and tested.

2. General terms

The person acknowledges and commits to the general terms set forth in the sub-terms below.

2.1 Acknowledgement that WorkSafe alleges a contravention occurred as detailed in term 1.2

Higgins acknowledges that WorkSafe alleges Higgins has contravened sections 36(1) (a), 48(1) and 48(2) (c) of the Health and Safety at Work Act 2015 in relation to the incident detailed in section 1 above. Higgins has taken this incident, and WorkSafe's allegations, very seriously. This is reflected in the remedial steps identified in this enforceable undertaking.

2.2 Statement of regret that the contravention occurred

Higgins continues to extend its heartfelt remorse to the Injured Person and his whanau. Higgins sincerely regrets that the incident on 27 February 2018 occurred and that the Injured Person suffered physical and emotional harm as a result.

2.3 Statement of the reasons why, on balance, the person considers this undertaking is the most appropriate response to the contravention

Whilst Higgins acknowledges that no payment of reparation, or other offer of amends, will bring the Injured Person's eye back, Higgins considers that this undertaking is a more appropriate response to the contraventions under the Act than a court imposed penalty. Higgins considers that significantly more value would be obtained by focussing its energy and resources on proactive activities that benefit the Injured Person, workers at Higgins, the civil infrastructure industry and the communities in which Higgins operates.

For these reasons, Higgins considers that an enforceable undertaking is an appropriate response to this incident. The initiatives that are proposed to be undertaken will have tangible benefits in these areas. In particular:

- The Injured Person and his whanau have been and will continue to be supported by Higgins, both financially and in other ways. The non-financial initiatives which focus on the Injured Person will provide opportunities for him to further his career by strengthening leadership skills and renewing confidence.
- The initiatives committed to in this enforceable undertaking will enable the Injured Person to share his experiences through the proposed video, so that Higgins and the wider industry can benefit from lessons learned. This would be balanced against the Injured Person's desire to remain out of the 'spot light' in regards to his journey.
- The undertaking would result in targeted additional investment in health and safety within Higgins's business, including the creation of additional roles and the use of new technologies specific to paving. It will directly benefit Higgins's workers through increased training and awareness around the risks associated with paving. Worker competency will also be improved through the additional health and safety roles created and the new technologies that will be implemented.
- Health and safety information and resources would be shared across the civil construction industry, to facilitate the improvement of health and safety practices within the industry generally. The aim of this will be to raise the health and safety bar for the benefit of all civil construction workers.
- Safety for the community will be improved through the provision of assistance funding for essential resources to a school within the Injured Person's community, and funding a donation to an emergency services sector team.

2.4 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur

Higgins commits that the behaviour, activities, and other factors which caused the alleged contravention have ceased. Higgins commits to undertaking the activities described in this undertaking so that, so far as is reasonably practicable, those circumstances will not reoccur.

2.5 Acknowledgement of the policy published by WorkSafe for the acceptance of an undertaking

(write the name of the person(s) or entity giving the undertaking)

Henare Clarke

Has read and understood the Enforceable Undertakings Operational Policy

2.6 Acknowledgement that this undertaking will be published and publicised in full

(write the name of the person(s) or entity giving the undertaking)

Higgins Contractors Limited

Acknowledges that the undertaking will, if accepted, be published on WorkSafe's website in full and referenced in WorkSafe material

2.7 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities

(write the name of the person(s) or entity giving the undertaking)

Higgins Contractors Limited

has the financial ability to comply with the terms of this undertaking and have provided evidence by way of (type of evidence provided)

The ultimate Group parent company, Fletcher Building Limited, is listed on the New Zealand Stock Exchange with publicly available financial information.

with this undertaking to support this declaration

In the event of impending receivership, liquidation or sale of the entity, (write the name of the person(s) or entity giving the undertaking)

Higgins Contractors Limited

will advise WorkSafe of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

2.8 Statement outlining any relationship between the person and any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking

Higgins has current relationships with the following entities or people proposed as beneficiaries in this undertaking:

- current workers of Higgins;
- Civil Construction New Zealand (CCNZ) – Higgins is a current member;
- Toku Mapihi Maurea School (Waikato) – some of the Whanau of the Injured Person attend the school;
- The Blind Foundation;
- The Marlin Softball Club; and
- St John Ambulance services, Tauranga, for their support and assistance for the Injured Person immediately following the incident.

Aside from the relationships listed above, Higgins is not aware of any other current relationships with the proposed beneficiaries outlined in this undertaking except on an arm's length, commercial basis. However, the civil construction industry touches a number of other sectors, and it is possible that Higgins may have contractual or commercial relationships with other industry stakeholders who may benefit from the activities contained in this undertaking.

2.9 Statement regarding Intellectual Property

(write the name of the person(s) or entity giving the undertaking)

Higgins Contractors Limited

Grants WorkSafe a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in relation to any material developed as a result of this undertaking. This licence includes the right to use, copy, modify and distribute the materials

2.10 Acknowledgement that the person may be required to provide a statutory declaration

(write the name of the person(s) or entity giving the undertaking)

Higgins Contractors Limited

acknowledges that it may be necessary for WorkSafe to obtain a statutory declaration outlining details of any prior convictions (safety related) outside of New Zealand and that it will provide such declaration if required by WorkSafe

2.11 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking

It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.

Evidence to demonstrate compliance with the terms will be provided to WorkSafe by the due date for each term.

The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by WorkSafe, that this undertaking has been completely discharged.

It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to enforcement action.

It is acknowledged that WorkSafe may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to WorkSafe.

It is acknowledged that WorkSafe may initiate additional compliance monitoring activities, such as inspections, as considered necessary at WorkSafe's expense.

It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to WorkSafe, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

(write the name of the person(s) or entity giving the undertaking)

Higgins Contractors Limited

3. Enforceable terms

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and an estimated cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

3.1 A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking

Detail the management strategies to be employed that will satisfy and demonstrate to officer/s of the person that this commitment is being met:

Commitment

Higgins is committed to continuous improvement and the effective management of risks to health and safety in its work and workplaces.

The specific actions Higgins intends to take to ensure, so far as is reasonably practicable, risks to the health and safety of workers and others are identified and effectively managed during future business activities (in addition to the other initiatives set out in this undertaking) include:

- Using Protect (a best practice environment, health and safety programme that applies to all Fletcher Building Group businesses) to focus on preventative risk reduction, building engagement, and fostering a strong safety culture across all of the business, every day. Protect sets out a number of rules and standards that businesses are required to meet. It also introduces common language and ways of doing things so no matter where you work or what you do, you get the basics right, consistently, every day.
- Providing ongoing training and information to workers about how they can keep themselves and their workmates safe at work.
- Ensuring ongoing and regular engagement with workers about health and safety issues in the workplace.
- Sharing critical risks and learnings from incidents with senior management, executives, and project/site leaders to ensure there is an understanding within Higgins management of the relevant critical risks associated with the business, and to allow management to engage in appropriate health and safety discussions to drive future improvement.
- Undertaking various assurance activities, including audits of sites against the requirements of Higgins's EHS Standards. These will be reported to and monitored by senior managers and officers of Higgins.

3.2 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties

(this may include to work health and safety representatives and in the organisation's annual report, if applicable)

Higgins commits to share information about this undertaking with its workers, and other relevant parties.

Dissemination will be achieved by doing the following:

Higgins intends to take the following steps to share information about this undertaking:

- Prepare a "Learn" (revised safety alert) to communicate to the workers with a brief explanation of what happened, and what went wrong in relation to failed risk controls to protect the workers, along with a description of the undertaking and some of the activities and introductions workers will see occur based on the changes to be made during the implementation of the enforceable undertaking activities. The Learn (revised safety alert) will be emailed to all Higgins employees. It will also be emailed to external civil contractors.
- Brief Health and Safety Representatives and Health and Safety Committee members on the content of the undertaking so they can be a point of contact for any workers who have questions about it.
- Utilise two elements of Protect (SHARE and LEARN) as a vehicle to communicate the undertaking to workers and facilitate a two-way discussion.
- Post a copy of the undertaking on Higgins's intranet with an overview of the incident and the circumstances giving rise to it.
- Prepare a visually engaging video presentation to Higgins's workers referencing the Health and Safety at Work Act 2015 and the use of the enforceable undertaking as an alternative to prosecution. This focus will be on the benefits of this option to the workers, the industry, and the community. The Injured Person has expressed his desire to be included in the video.
- Information about the undertaking and lessons learned will be published on the company's social media channels (ensuring no personal details are included) and made available during the CCNZ presentations for distribution by other civil contractors as they see fit.
- Higgins will give presentations to 8 regional meetings on the undertaking and lessons learned to Civil Construction New Zealand (CCNZ) during 2020 as the initiatives are developed and can be demonstrated to industry.

Dissemination will occur by: Within 120 days of the date of this undertaking.

3.3 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for workers and/or work and/or the workplace

The reasonably practicable steps that WorkSafe alleges Higgins failed to take to ensure the health and safety of workers relate to:

- the engagement of a competent person to undertake a systematic risk assessment of the Paver after the modification of the roof;
- ensuring that workers were trained appropriately and provided with appropriate information to safely operate the Paver
- developing, implementing and monitoring a safe system of work for the Paver including:

- site specific induction for all workers; and
- pre-start checks specific to the Paver

As explained earlier, the roof canopy of the Paver has been removed and no other pavers used in Higgins' business had the same roof modification. The removal of the roof canopy has therefore eliminated the particular risk that was realised in this case.

The activities proposed focus on the delivery of benefits for workers and the workplace. They are intended to have a broad reach, and make substantial improvements beyond the specific alleged failings identified by WorkSafe, whilst retaining a thematic connection to those alleged failings. The activities will involve:

- assisting workers to understand why the enforceable undertaking has been entered into and what improvements at Higgins will be made;
- carrying out an external risk assessment with a 'user to plant'/'human factors' focus for all paver brands and models in use within Higgins;
- developing Site Specific inductions based on Higgins existing 'Hazard ID' site Pre-Start document, creating an electronic version to be completed prior to work commencement;
- developing electronic Pre-Starts for all pavers, with specific information based on the external risk assessment;
- incorporating images and videos to Safe Operating Procedures (SOP) for pavers to improve worker engagement, competency and understanding; and
- re-inducting paver operators to the SOPs updated following the risk control reviews, to provide workers with training for any new risk controls and worker behaviours required based on the findings of the externally led risk assessments.

In addition, and although not dealt with as part this enforceable undertaking, Higgins is fully committed to taking all reasonably practicable steps to extend the commitments/initiatives that are specific to paving work into other types of plant that Higgins uses. This reflects an understanding that this enforceable undertaking is not a 'one off' exercise but part of an ongoing process towards, and commitment to lifting, health and safety standards across the business and the civil construction industry.

ACTIVITIES <i>Outline the activity and the expected outcomes</i>	COST (\$) (Plus GST, if any)	TIMEFRAME
<p><u>Why an Enforceable Undertaking? (Worker engagement phase)</u></p> <p>Scope: Prepare a visually engaging video presentation to the workers referencing the Health and Safety at Work Act 2015 and the use of the enforceable undertaking as an alternative to prosecution. The focus will be on the benefits of this option to the workers, the industry, and the community. The Injured Person has informed Higgins of his interest in being involved in the video. Higgins will assist workers to understand what an enforceable undertaking is, why it has occurred, and address workers questions. The presentation will demonstrate the types of new technology and provide feedback through channels of support. The voice over will be by the General Manger to explain the safety journey required to protect</p>	<p>Videographer, equipment, editing and providing digital copy to Higgins for internal use - \$3,000</p> <p>Internal costs such as the involvement of Higgins workers, and travel for key Higgins team members to support the initiative are not able to be quantified, and are not included in the above amount.</p>	<p>Within 3 months of the date of this undertaking.</p>

<p>workers in the business.</p> <p><u>Delivery:</u></p> <p>Step 1: Engage a specialist videographer to provide professional services as part of the scope. The Injured Person has also indicated his desire to participate in the video.</p> <p>Step 2: Use the video as a tool to assist informing workers of the journey Higgins will take to prevent a similar incident happening again, by providing tools to assist workers in their daily tasks and to improve competency.</p> <p>Step 3: The presentation will be reviewed and approved by the Injured Person prior to publication, and will only include elements that he is comfortable to share with his co-workers.</p> <p>Outcome: Provide workers with a consistent message with reference to the Health and Safety at Work Act 2015 and WorkSafe's findings from the incident. Provide details of the engagement and consultation involved in the process, and the future changes they will experience as the undertaking is implemented.</p> <p>It is also anticipated that this presentation will be adapted so as to be used externally with Civil Construction New Zealand (CCNZ) in the future.</p>		
<p><u>Risk assessments with a 'user to plant'/'human factors' focus for all paver brands and models within Higgins.</u></p> <p>Scope: Higgins will engage an external safety engineer to prepare a framework for review of residual risk and controls, and human factors risks and controls. Higgins will engage an external paver specialist (from Wertgin) to assist with the review for each of the different types of pavers nationally within the business, based on a 'user to plant' interface / 'human factors' approach. The purpose of the risk assessment will be to identify areas of residual risk, review the existing controls in place and, through worker engagement and interaction, assess worker behaviours when faced with these risks and controls. 'Above the line' controls will be sought, and operators and workers will be engaged throughout the process.</p> <p>Delivery: Higgins will communicate with workers, and incorporate findings of the risk assessment reviews into existing Risk Management tools and ensure all risk control recommendations are reviewed and implemented so far as is reasonably practicable.</p> <p>Outcomes: Findings, learnings and actions will</p>	<p>Estimated cost of engaging an external safety engineer based on quotes - \$20,000</p> <p>Estimated cost of engaging Paver Specialist from Wertgin - \$25,000</p> <p>Cost of risk mitigation and incorporation of findings into Higgins's existing Risk Management tools is unquantifiable at this stage.</p>	<p>Within 3 months of approval of undertaking</p>

<p>provide the information to be fed into the technology tools to be used in the plant specific Pre-Start. It will also be prepared and presented to other civil contractors who use pavers and during the regional CCNZ bi-monthly meetings.</p> <p>The findings, learnings and actions will also be communicated to workers through the Safe Operating Procedure visual engagement portion of the undertaking.</p>		
<p><u>Develop electronic 'Site Specific Induction' form</u></p> <p><u>Scope:</u> Higgins will use the existing site forms, including the Hazard ID form, to establish a site specific induction for each paving team to complete prior to commencing work. The completion of this form will be compulsory prior to carrying out any works at the site, and the team will be required to be in attendance (proposed that the form will include attendance verification such as a team photograph)</p> <p><u>Delivery:</u> Higgins will review existing forms with the users at a site level and will engage a resource for form building and technical support. The forms will be tested at site level as a prototype with workers prior to 'go live'</p> <p><u>Outcome:</u> Electronic site specific review as a form of induction to the site location carried out by the work team will provide further engagement and collaboration opportunities. It will also provide workers with an additional opportunity to discuss risks and controls as a team prior to work commencing. The use of electronic as opposed to paper-based forms will also enable better monitoring of inductions by management and supervisors, and provide better data for analysis so that Higgins can establish trends and patterns for further learning and worker safety improvements where appropriate.</p> <p>The form will be created in a format that operates within the software systems used/being procured by Higgins and will be specific to risks identified in Higgins' operations. However, to encourage industry benefit in addition to the benefit for Higgins' own workers, the forms developed and how they link to the underlying software systems to create a smart form will be shared during presentations to CCNZ. Other industry participants will be provided the form templates, the underlying XML data and information regarding the underlying software systems upon request for use, as they see fit, in the development of their own site specific</p>	<p>\$95,000 (resource 1 person for one year project, including technical support)</p>	<p>12 months</p>

induction processes and systems		
<p><u>Develop electronic Pre-Starts for all pavers, with specific information based on the external risk review (above) and loaded to technology for use in the field.</u></p> <p><u>Scope:</u> Electronic Pre-starts for pavers will be loaded to 'tough pads' for use on site (includes the ability to download for use outside of areas with internet access). The pre-start will require the selection of the specific plant, it will link to the plant management database, to enable the worker to ensure maintenance works are up to date, and it will identify any specific risks and controls associated with the plant, taking the worker to video and/or imagery within the SOP for coaching and clarification. Plant specific data will be collected from the external risk review project as well as from manufacturer's manuals and other information that the work team are aware of in relation to the plant.</p> <p><u>Delivery:</u> Higgins will develop the appropriate digital programme to provide the tools to carry out the pre-start with accurate information from SOPs, and workers will be trained in the use of the digital platform to confirm their engagement with the specific paver to be used for the task.</p> <p>Three steps will be required to establish this process:</p> <p>Step 1: Higgins will procure tough pads for the use of the paver crews to carry out the pre-start within the live data space and commence the form building to provide a prototype for in field testing with workers.</p> <p>Step 2: Higgins will establish a number of workshops and working groups to ensure the technology and form builder design and interface is suitable to the workers through worker engagement and feedback sessions.</p> <p>Step 3: Higgins will ensure the development of the technology includes the ability to download to a suitable technology to allow the pre-start check to run with the inclusion of video information while in an area of poor connectivity.</p> <p><u>Outcomes:</u> Workers who will operate pavers will have the tools available to induct themselves to the specific machine to ensure competency prior to operation, as part of site specific inductions. Workers will have ease of access to visual guidance, they will have access to learn of any plant specific risk controls, and any</p>	\$100,000	6 – 12 months

<p>maintenance issues prior to the use of the plant.</p> <p>The pre-start tool will require the operator to acknowledge their competency, make themselves familiar with the SOP (key points imbedded in a video format) and acknowledge specific risk controls relevant to the paver they have been assigned to for the task.</p> <p>Supervisors will have the ability to monitor workers to ensure that pre-start information is accessed and completed. Pre-starts for paving work will be required for all workers prior to work commencing as part of any site specific induction.</p> <p>As noted above, in relation to the site-induction form, the pre-start tool will be created in a format that operates within the software systems used/being procured by Higgins and will be specific to risks in Higgins' operations. However, to encourage industry benefit in addition to the benefit for Higgins' own workers, the forms developed and how they link to the underlying software systems to create a smart form will be shared during presentations to CCNZ. Other industry participants will be provided the form templates, the underlying XML data and information regarding the underlying software systems upon request for use, as they see fit, in the development of their own site specific induction processes and systems</p>		
<p><u>Incorporate images and videos to Safe Operating Procedure for pavers based on the external risk review</u></p> <p><u>Scope:</u> Higgins will incorporate short video clips and visual prompts to the plant equipment Pre-Starts for pavers via the Safe Operating Procedures, using links from the live pre-start document to the SOP repository.</p> <p><u>Delivery:</u> The delivery of videos and images within the SOPs will be achieved through the following stages of work:</p> <p>Stage 1: Paver crews will be engaged with and consulted regarding their existing process for SOP familiarisation, and assist to establish key areas within the operation of the plant which the SOP can target with video or imagery for improved worker understanding. These will be linked within electronic pre-starts for ease of access for users on a daily basis.</p> <p>Stage 2: Higgins will engage an external professional videographer to assist with capturing and preparing clips to be inserted into electronic SOPs within the existing electronic</p>	<p>\$3,000</p>	<p>6 – 12 months</p>

storage system.		
<p>Outcome: The use of visual prompts and videos will improve worker engagement with the key aspects of the plant operation and maintenance, including key risk controls identified during risk and control reviews. These will be linked to daily pre-start checklists, ensuring workers have easy access to the tools and can discuss them in their work area with colleagues. By reducing the amount of written material for the workers to review, worker engagement will improve, and it is expected that a visual representation will improve comprehension (and therefore competency) for those that struggle with written documentation. The videos will also provide the wider worker groups with an understanding of the risks relating to pavers, and the safe operation and interaction with the plant, providing all workers within work teams with the knowledge to support and assist their team members.</p>		
<i>Total estimated cost of benefits for workers/others</i>	\$246,000	

3.4 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for the wider industry or sector

ACTIVITIES <i>Outline the activity and the expected outcomes</i>	COST (\$) (Plus GST, if any)	TIMEFRAME
<p><u>Provide CHASNZ with financial support to further develop modules within the Tier 2 training for ConstructSafe</u></p> <p>Scope: Higgins will make a donation to CHASNZ which will contribute toward CHASNZ developing a competency framework, test, and equipment check for Asphalt Pavers as part of the ConstructSafe Plant Operator competency scheme. Higgins will, along with other industry leaders, continue to support the development of minimum industry standards by providing input and feedback on the competency scheme.</p> <p>Delivery: Higgins will provide workers for a focus group facilitated by CHASNZ with the intent of providing industry knowledge for the development of the Asphalt Paver competency framework which will benefit the civil and roading construction industry and assist to provide assurance of worker competency and training to clients</p>	<p>\$30,000</p> <p>Other direct costs (including internal staff time) are not able to be quantified, and are not included in the above amount.</p> <p>The letter of intent from CHASNZ confirms that the funds donated by Higgins would be allocated to the delivery of this activity.</p>	<p>Payment within 2 months of the date of this undertaking.</p> <p>Workshop to be carried out within 6 months of the date of this undertaking.</p> <p>Higgins will follow up with CHASNZ at regular intervals (not less than monthly) on progress towards the completion of the Paver Module within the ConstructSafe tool.</p>

<p>engaging civil and roading contractors.</p> <p>In addition, Higgins will assist with broader consultation with other industry participants on the developed content. This will be done by inviting other organisations in the industry who carry out paving works to provide workers for the workgroups.</p> <p>In addition to facilitating the workshops arranged by Higgins, CHASNZ will undertake the technical work required to upload the competency assessment programme (and equipment check too) into the ConstructSafe system.</p> <p>CHASNZ has provided Higgins a letter of assurance of their intent (appended), which sets out further detail relating to the initiative, including the respective roles of CHASNZ and Higgins.</p> <p>Outcome: When the competency framework, test, and equipment check are completed, Higgins will assist with publicising their availability throughout the industry by developing a case study to share with CCNZ members and other organisations carrying out paving works</p> <p>The wider industry will benefit from the development of additional training and competency module, as it creates a supply of relevant modules that organisations can use to up skill their workforces, which is recognised by industry clients such as NZTA and Auckland Transport.</p> <p>The inclusion of Higgins's workers in a focus group will also result in knowledge-sharing, which in turn will benefit Higgins's workforce through increased worker awareness and competency.</p> <p><u>Higgins will also implement the</u> competency framework, test, and equipment check within its own paving business.</p>		
<p><u>Presentation to Civil Contractors New Zealand ('CCNZ') bi-monthly regional meetings</u></p> <p>Scope: Higgins has approached CCNZ (Peter Silcock – Chief Executive of CCNZ) to agree a way of sharing learnings and actions from the enforceable undertaking with CCNZ members at regional meetings</p>	<p>Estimate for appropriate Higgins team members to travel and attend, and for cost of preparation of materials for delivery - \$4,500</p>	<p>Within 12 months of the date of this undertaking.</p>

during 2020. Delivery: Higgins representatives will attend and present at the CCNZ regional meetings during 2020 about the learnings and actions implemented based on this enforceable undertaking. The presentation will include demonstrating the risk assessment approach, and the alignment with the tools used by the workers when pre-starting the plant as paver operators. Outcome: The presentations to the CCNZ members will both inform the wider industry of the safety issues identified during this incident and the actions taken to prevent future reoccurrence.		
<i>Total estimated cost of benefits for industry</i>	\$34,500	

3.5 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for community		
ACTIVITIES	COST (\$) (Plus GST, if any)	TIMEFRAME
<u>Donation to St John</u> Higgins is very aware that when a serious incident occurs, it is the emergency responders that ensure appropriate treatment is provided as soon as possible. Higgins wishes to support the emergency workers by donating \$5,000 to St John response services to assist St John with their continued efforts to meet the emergency health and safety needs of New Zealand communities.	\$5,000	Within 3 months of the date of this undertaking.
<u>Donation to Blind Foundation</u> Higgins wishes to donate \$5,000 to the Foundation to assist it to continue supporting people who suffer from blindness, low vision and sight loss.	\$5,000	Within 3 months of the date of this undertaking.
<u>Donation to Marlin Softball Club</u> Higgins is aware of the Injured Person's passion for softball and how the injury has affected his ability to play the sport in his local softball team. Higgins will make a donation of \$5,000 to the Injured Person's softball club.	\$5,000	Within 3 months of the date of this undertaking.

<p><u>Donation to Toku Mapihi Maurea School, Waikato</u></p> <p>The Injured Person's grandchildren attend Toku Mapihi Maurea School. Higgins have approached the Principal and will donate \$10,000 to the school to be used to improve school safety for the children and meet educational needs.</p>	<p>\$10,000 donation</p>	<p>Within 3 months of the date of this undertaking.</p>
<p><i>Total estimated cost of benefits for the community</i></p>	<p>\$25,000</p>	

3.6 Where WorkSafe considers appropriate in the circumstances, undertaking a SafePlus Onsite Assessment

Further information about SafePlus can be found here: worksafe.govt.nz/about-us/who-we-are/our-priorities/safeplus/about-safeplus

- 3.6.1 The suitability of a SafePlus assessment will be determined by the Enforceable undertakings Panel when your application is considered.
- 3.6.2 In addition to the total cost below (3.7) all costs of a SafePlus Onsite Assessment will be met by the person making this undertaking. The fee charged for an Onsite Assessment is a commercial matter between your business and the SafePlus Accredited Assessors that you commission.

3.7 Minimum spend

(write the name of the person(s) or entity giving the undertaking)

3.7.1 Higgins Contractors Limited

commits to a minimum spend of \$365,500 for this undertaking

(write the name of the person(s) or entity giving the undertaking)

3.7.3 Higgins Contractors Limited

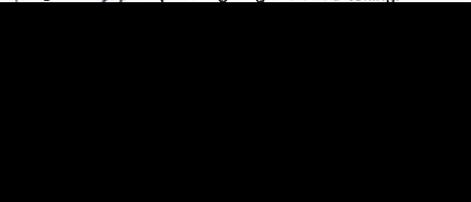
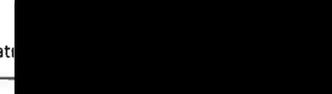
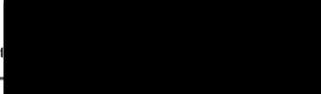
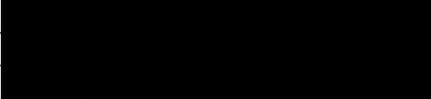
agrees to spend any residual amount arising from an original term not being completed or being less costly than estimated in this undertaking. Agreement on how to spend this residual amount will be sought from WorkSafe

(write the name of the person(s) or entity giving the undertaking)

3.7.3 Higgins Contractors Limited

Acknowledges the minimum spend comprises of the following:

TOTAL COST	MINIMUM SPEND (Plus GST, if any)
Financial amends paid to victims (if applicable)	\$60,000
Benefits to workers/others	\$246,000
Benefits to industry	\$34,506
Benefits to community	\$25,000
Estimated cost of the undertaking	\$365,500

4. Execution	5. Acceptance
Authorised representative of an organisation Undertaking given by: <i>(name of authorised representative)</i> Henare Clarke In my own right and in my capacity as <i>(eg President, Chairperson, etc.)</i> General Manager of <i>(eg organisation name)</i> Higgins Contractors Limited On the <i>(day)</i> 5th day of <i>(month)</i> November, 2019 year	This undertaking is accepted by WorkSafe On the <i>(day)</i> 6th day of <i>(month)</i> Nov, 2019 year
Signature of the person giving the undertaking: 	Signature of the person accepting the undertaking:  Name of WorkSafe representative: <i>(General Manager, WorkSafe (or delegate))</i> . Simon Humphries, Head of Specialist Interventions
Undertaking given before me: Witness name:  Witness address:  Witness signature: 	Undertaking given before me: Witness name: Mark Bailey Witness address: ct- 86 custom house Quay Wellington Witness signature: 

Appendix 1 - CHASNZ letter of assurance



04 October 2019

The Fletcher Construction
Company Ltd Level 3, Fletcher
House Toru
810 Great South Road
Penrose, Auckland 1061
Attention: Emlyn Moore, Project Manager, C/- email: EmlynM@fcc.co.nz

RE: HIGGINS ENFORCEABLE UNDERTAKING SUBMISSION

Dear Emlyn

Construction Health and Safety New Zealand (CHASNZ) Trust are committing to partner with Higgins in order to develop a competency framework test and equipment check for Asphalt Pavers as part of the ConstructSafe Plant Operator competency scheme.

Higgins will donate funding to CHASNZ for the amount of \$30,000 excluding GST for the development of a competency framework test and equipment check for Asphalt Pavers which will be made publicly available to industry.

The funds donated by Higgins will be allocated to the delivery of this project.

CHASNZ's role in this project will be to facilitate a series of workshops arranged by Higgins in order for the content of the frameworks, knowledge assessments, in-field assessments, and check-lists to be developed by Higgins (and wider Fletcher Construction) people. CHASNZ (through our ConstructSafe scheme administrator), will undertake the technical work required to upload a suitable and sufficient competency assessment programme (and equipment check tool) into the ConstructSafe system, for use by the wider construction industry.

CHASNZ will expect Higgins to:

- Arrange and provide people for a sufficient number of workshops required to fully develop the content
- Assist with broader consultation with industry on the developed content
- Implement the resultant knowledge assessment, in-field assessment, and equipment check tool in its business
- Assist in publicising it throughout the industry through development of a case study.

We applaud Higgins innovative suggestion for improving industry competence and assurance in this area and we are very much looking forward to working with Higgins on this project.

Yours sincerely



Jon Harper-Slade
General Manager Skills and Competency

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Auckland 1143